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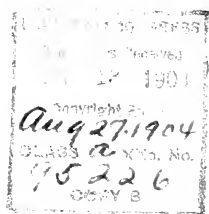




A LETTER  
TO THE SHERIFFS OF BRISTOL  
EDMUND BURKE

EDITED  
WITH AN INTRODUCTION AND NOTES  
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## PREFACE.

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A regulation of the State Board of Law Examiners of Pennsylvania, which went into effect in January, 1903, requires that all applicants for examination and registration as students at law "must be able to pass a satisfactory examination upon the subject-matter, the style and the structure, and to answer simple questions on the lives of the authors" of twelve English classics, among which are Burke's *Speech on Conciliation with America*, and his *Letter to the Sheriffs of Bristol*. The lack of any well annotated edition of Burke's *Letter* led to the preparation of this volume, which aims to present in convenient form the facts of Burke's life, the text of the *Letter*, and the notes necessary to a full understanding of the text. In the Notes facts of special interest to students at law have been pointed out.

The interest and value of this *Letter* is not limited to students at law. It will be found of great value in all schools as a model of style and reasoning. Its subject-matter is also of great interest, for it reveals the attitude and arguments of many English statesmen in the critical struggle which led to the founding of our nation.

The text of the *Letter* is that of the first edition, corrected by comparison with the fourth edition, and the first edition of Burke's collected works. In the prepara-

tion of the Notes, the editor acknowledges his indebtedness to earlier editors, especially to Prof. F. G. Selby. He desires to express his appreciation of the sympathetic help of his colleagues, Professors Albert H. Smyth and John Louis Haney, and of his classmate, Irvin Shupp, Jr. He is especially grateful to Prof. Franklin Spencer Edmonds for his concise account of the origin and application of THE WRIT OF HABEAS CORPUS, which forms the third section of the Introduction; and to David Wallerstein, Esq., whose enthusiastic admiration of Burke and acquaintance with his writings led to many valuable suggestions in the Introduction and the Notes. The editor hopes that those who read this *Letter* may show in their practice of law and their criticism of the principles of law the same spirit of humanity which characterises all of Burke's writings.

J. H. M.

*Central High School,  
May 21, 1904.*



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# INTRODUCTION.

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## I

### THE LIFE OF EDMUND BURKE.

WHEN Edmund Burke died in 1797, George Canning wrote to one of Lord Malmesbury's embassy: "There is but one event, but that is an event for the world,—Burke is dead. . . . He is the man that will mark this age, marked as it is in itself by events, to all time."<sup>1</sup> During the twenty-nine years from 1765 to 1794, in which Burke was a member of the House of Commons, he was actively interested in every measure of constitutional and colonial importance. As a political pamphleteer and legislator, he helped to remove the unjust restrictions from Ireland's commerce; to grant the privileges of citizenship to Roman Catholics; to preserve the independence of the representatives of the people in Parliament from the unconstitutional influence of the King; and to protect the King and the Church from the destructive influence of the French Revolutionists. His greatest work was in discussing and determining the relation of the imperial government to the colonies, both in the case of the Americans, who claimed their rights as Englishmen, and of the people of India whose sufferings from English injustice were scarcely known in England.

<sup>1</sup> Malmesbury's *Diaries*, London, 1844, III. 398.

Burke's writings have been prized for one hundred and twenty years by statesmen and scholars, not so much for their historical value as for their political principles and literary style. "Burke is the one Englishman who has succeeded in attaining first rate eminence both in politics and in literature by one and the same set of writings."<sup>1</sup> Yet he was always handicapped by the circumstances of his life. His family had none of that social influence which is so essential to success in English public life; he was seldom in good health and always more or less in debt. The secret of his success can be found in his unselfish sympathy and far-reaching ability and zeal for work. As his cousin said, Burke was "full of real business, intent upon doing solid good to his country as much as if he was to receive twenty per cent from the commerce of the whole empire which he labours to improve and extend."<sup>2</sup> Burke himself, in the *Letter to a Noble Lord*, said, "*Nitor in adversum* is the motto for a man like me. . . . At every step of my progress in life, (for in every step was I traversed and opposed), and at every turnpike I met, I was obliged to show my passport, and again and again to prove my sole title to the honour of being useful to my country, by a proof that I was not wholly unacquainted with its laws and the whole system of its interests both abroad and at home."<sup>3</sup>

Burke's father was a well-to-do lawyer of Dublin and gave his son a good education at the boarding school of Abraham Shackleton, a Quaker, and afterwards at

<sup>1</sup> Sir J. F. Stephen, *Horæ Sabbaticæ*, 3rd Series, 1894, p. 93.

<sup>2</sup> Prior's *Life of Burke*, 5th Edition, London, 1854, p. 89.

<sup>3</sup> Burke's *Works*, Boston, 1899, V. 193.

Trinity College, Dublin, where Edmund formed an excellent habit of general reading, spending three hours every day in the library. Later in life, Burke wrote to his own son: "Reading, and much reading, is good; but the power of diversifying the matter infinitely in your own mind, and of applying it to every occasion that arises, is far better."<sup>1</sup> For two years after graduation, Burke studied law in his father's office and then in 1750 went to London to complete his legal education, for a regulation required that candidates for the Irish Bar should study in the legal societies of the Inner and Middle Temple, London.

Burke always had a high veneration for the legal profession; in his speech on *American Taxation*, he said of Mr. Grenville: "He was bred to the law, which is, in my opinion, one of the first and noblest of human sciences; a science which does more to quicken and invigorate the understanding, than all the other kinds of learning put together; but it is not apt, except in persons very happily born, to open and to liberalize the mind exactly in the same proportion."<sup>2</sup> Burke, however, neglected his studies; he was more interested in literature and in the proceedings of Parliament. Many evenings he spent, an eager listener, in the gallery of the House of Commons, which later, in his parliamentary career, was often cleared of visitors lest his eloquence should have too great an influence on the public. Burke was soon forced to make his own living, chiefly by writing for publishers, because his disappointed father refused to continue his annual

<sup>1</sup> Burke's *Correspondence*, London, 1844, I. 426.

<sup>2</sup> Burke's *Works*, II. 37.

allowance of £100. His first important publications were *A Vindication of Natural Society*, an indirect reply to Lord Bolingbroke's defence of natural religion, and *A Philosophical Inquiry into the Origin of our Ideas of the Sublime and Beautiful*, which, though now obsolete, had the important effect of causing the German scholar, Lessing, to write *Laokoön*, one of the earliest essays on modern art criticism. A year later Burke began *An Abridgment of English History*, which he never completed. His more important historical work was the editing of the *Annual Register*, which is still published, giving a brief summary of the important events of each year.

These four works are his only non-political writings. Everything else that Burke wrote was in direct support of some public measure. In 1761 he entered upon the feverish life of a politician, becoming private secretary of William Gerard Hamilton, who was Chief Secretary of the Earl of Halifax, the Lord Lieutenant of Ireland. Hamilton was nicknamed "Single Speech," because his first speech in the House of Commons was so excellent that he never ventured to make another. Hamilton recognised Burke's ability and attempted to monopolise his efforts by securing for him an annual pension of £300. Burke refused to become his political slave and wisely gave up the pension.

On his return to England, Burke joined with his friends, Dr. Samuel Johnson, Sir Joshua Reynolds, Oliver Goldsmith, and others, to form the famous Literary Club. Burke was one of the few men whom Dr. Johnson respected as equals. He said: "Burke is the only man whose common conversation corresponds with the general

fame which he has in the world. Take up whatever topic you please, he is ready to meet you. . . . He does not talk from a desire of distinction, but because his mind is full. . . . He is never what we call hum-drum; never unwilling to begin to talk, nor in haste to leave off." When Burke with other friends came to bid farewell to Johnson on his death bed, he expressed a fear that so many callers might oppress the sick man. Johnson replied: "I must be in a wretched state, indeed, when your company would not be a delight to me."<sup>1</sup>

In 1765 Burke became private secretary of the Prime Minister, the Marquis of Rockingham. Burke proved to be the life of the Rockingham party, the conservative Whigs. He worked so hard to keep this party together and active, that many of his contemporaries looked upon him as a mere partisan. His friend Oliver Goldsmith expressed this opinion in his humorous poem, *Retaliation*:

"Here lies our good Edmund, whose genius was such,  
We scarcely can praise it or blame it too much;  
Who, born for the universe, narrowed his mind,  
And to party gave up what was meant for mankind."

Yet in 1783 this very party was driven from the control of the government by the defeat of Fox's East India Bill, which Burke probably had prepared and had supported in the House of Commons. Ten years later when many of the Whigs sympathised with the revolutionists in France, Burke did not hesitate to desert the party. The Whigs did not regain the control of the government for half a century.

<sup>1</sup> Boswell's *Life of Johnson*, edited by Birkbeck Hill, Oxford, 1887, IV. 19, 167, 407, V. 33.

Though not a partisan, Burke was a strong supporter of the party system of government. Most statesmen had connived at it as a necessary evil of which the less said the better. In 1770, in his pamphlet, *Thoughts on the Cause of the Present Discontents*, Burke publicly defended party. "Party is a body of men united for promoting by their joint endeavours the national interest upon some particular principle in which they are all agreed. For my part, I find it impossible to conceive, that anyone believes in his own politics, or thinks them to be of any weight, who refuses to adopt the means of having them reduced into practice. . . . When bad men combine, the good must associate."<sup>1</sup>

Burke had ample opportunity to become acquainted with the strength of party government, for he was in the Opposition, or minority, for twenty-seven of his twenty-nine years in Parliament. The chief work of his party during the short period of its power was Burke's Economical Reform Bill, which wisely reduced the expenses of government about £72,000 a year, by limiting the pension list and by abolishing many useless, lucrative positions at court. This effectually weakened the King's party which had granted these positions as bribes to members of the House of Commons. The income of the Paymaster General was also regulated; and Burke himself was the first Paymaster to receive the reduced salary.

Burke was never appointed to a higher office than this of Paymaster General, which he held in 1782 and again in 1783. It seems strange that when his party was in power, Burke was not given a position in the cabinet,

<sup>1</sup> Burke's *Works*, I. 530, 526.



which his abilities and services certainly merited. Many explanations, more or less satisfactory, have been suggested.<sup>1</sup> His ungoverned excesses of party zeal and political passion made him an uncomfortable colleague. Lord Lansdowne declared that Burke "was so violent, so overbearing, so arrogant, so intractable, that to have got on with him in a cabinet would have been utterly and absolutely impossible." Burke was always harassed by unjust prejudices and libels. Many men thought he was the author of the scurrilous *Junius' Letters*, now known to be by Philip Francis. His relatives were looked upon with suspicion as Irish adventurers. Sir Gilbert Elliot said: "Burke has now got such a train after him as would sink anybody but himself—his son, who is quite *nauseated* by all mankind; his brother, who is liked better than his son, but is rather offensive with animal spirits and with brogue; and his cousin, Will Burke, who is just returned unexpectedly from India, as much ruined as when he went many years ago, and who is a fresh charge on any prospects of power that Burke may ever have." Another hindrance was his notoriously straitened circumstances. Like his fellow-countryman, Oliver Goldsmith, Burke was always in debt and always too generous. He sent the young painter, James Barry, to the Continent to perfect his art. In 1768 he purchased an estate of six hundred acres near Beaconsfield, about twenty-four miles from London. He probably borrowed the £20,000 to pay for it, partly from the Marquis of Rockingham, although the mortgages on the property

<sup>1</sup> Morley's *Burke* (English Men of Letters Series), pp. 139-140.

were not paid off until his widow sold it fifteen years after his death.

The last ten years of Burke's public life were occupied with work for India and against France. In 1783 he was appointed a member of a committee of the House of Commons to investigate the administration of the East India Company, which had governed India since 1757 when Clive drove out the French. Chiefly through Burke's indefatigable efforts, Parliament learned of the cruelty and injustice of the Englishmen who went out to India as clerks and returned to England in a few years with enormous fortunes which they had extorted from the natives. India was so far distant from England, nine months in time, that the English in India did not feel responsible for justice in office.

After much deliberation Burke was forced to the conclusion that the responsibility for the unjust government rested upon the shoulders of Warren Hastings, who as Governor General had supreme control in India from 1773 to 1785. When Hastings resigned and returned to England in 1786, Burke urged the House of Commons to impeach him. After two years of debate, the House finally appointed a committee of managers, with Burke as chairman, to impeach Hastings before the House of Lords in Westminster Hall. The trial began in 1788 and was not finished until 1795, although the court was in session only one hundred and forty-eight days, because the judges were so often absent on circuit. At first Hastings had been regarded as a great criminal, but the increased familiarity with his actions and the length of his trial changed public opinion until he was looked upon as a

hero, and the managers were denounced as persecutors. Most of the managers, such as Fox and Sheridan, after their first great orations, lost interest in the trial, but Burke manfully kept up the vigorous prosecution, despite its unpopularity.

Hastings was finally acquitted. But Burke's labour had not been in vain. Though he failed to punish the culprit, he destroyed the system of unjust government. Thereafter the Governor Generals of India were not appointed from the officials of the Company, but from the nobles of England, experienced in diplomacy and statecraft, and responsible both for their personal and national honour. Burke also proved that English justice should be the same all over the world; what was considered injustice in London should be considered injustice in Calcutta. No longer did oppression and corruption continue to be the guiding maxims of English policy. Burke taught "the great lesson that Asiatics have rights, and that Europeans have obligations; that a superior race is bound to observe the highest current morality of the time in all its dealings with the subject race. Burke is entitled to our lasting reverence as the first apostle and great upholder of integrity, mercy, and honour in the relation between his countrymen and their humble dependents."<sup>1</sup> Burke himself wrote one year before his death: "If I were to call for a reward, (which I have never done,) it should be for those [services] in which for fourteen years without intermission I showed the most industry and had the least success: I mean in the affairs of India. They are those on which I value myself the most:

<sup>1</sup> Morley's *Burke*, p. 133.

most for the importance, most for the labour, most for the judgment, most for constancy and perseverance in the pursuit. Others may value them most for the *intention*. In that, surely, they are not mistaken.”<sup>1</sup>

During the French Revolution Burke endeavoured to protect England from the revolutionary influence, although many of his friends applauded the efforts of the French to assert their rights as men. Charles James Fox, for instance, when he heard of the fall of the Bastille, exclaimed: “How much the greatest event it is that ever happened in the world! and how much the best!”<sup>2</sup>

But Burke’s conservative heart was filled with dread at the violence of the revolutionists in overturning the long-established institutions of government. They had discarded the foundation of all of Burke’s political reasoning—experience. In their paroxysm of freedom, they declared that whatever had been was evil; good could only come from something new, not from an expedient modification of the old order.

Burke found that his efforts in the House of Commons to suppress sympathy for the French were inadequate. He determined to address the final court of appeal, the larger audience of the English public. In the fall of 1790, he published his *Reflections on the Revolution in France*. Thirty thousand copies were immediately sold. With the possible exception of Swift’s *Conduct of the Allies*, no pamphlet ever had such an immediate and permanent political effect. The majority of Englishmen had not known what to think of the French Revolution.

<sup>1</sup> Burke’s *Works*, V. 192.

<sup>2</sup> Russell’s *Memoirs of Fox*, Phila., 1853, II. 297.

When Burke made strong appeals to their emotions and gave them good reasons for opposing the Revolution, they immediately adopted his arguments as their own.

As the Revolution proceeded and Burke's sane predictions of the depreciation of paper currency, of the instability of the French King, of the abolition of Christianity, were fulfilled, men began to look upon him with wonder as a political prophet. Most remarkable was his prediction of the rise of such a military despot as Napoleon proved to be. "In the weakness of one kind of authority, and in the fluctuation of all, the officers of an army will remain for some time mutinous and full of faction, until some popular general, who understands the art of conciliating the soldiery, and who possesses the true spirit of command, shall draw the eyes of all men upon himself. Armies will obey him on his personal account. There is no other way of securing military obedience in this state of things. But the moment in which that event shall happen, the person who really commands the army is your master,—the master (that is little) of your king, the master of your assembly, the master of your whole republic."<sup>1</sup>

The *Reflections* should not be read to learn the history of the Revolution; it is rather an advocate's plea against it. Burke did not do justice to the needs for a revolution; he exaggerated the violence of the mob. Despite his prejudice and over-anxiety which mar many passages, there are many paragraphs of surpassing beauty of expression and soundness of political wisdom. The most famous example of his rhetoric is his description of

<sup>1</sup> Burke's *Works*, III. 524.

Marie Antoinette: "It is now sixteen or seventeen years since I saw the Queen of France, then the Dauphiness, at Versailles; and surely never lighted on this orb, which she hardly seemed to touch, a more delightful vision. I saw her just above the horizon, decorating and cheering the elevated sphere she just began to move in,—glittering like the morning-star, full of life and splendour and joy. Oh! what a revolution! and what an heart must I have, to contemplate without emotion that elevation and that fall. Little did I dream, when she added titles of veneration to those of enthusiastic, distant, respectful love, that she should ever be obliged to carry the sharp antidote against disgrace concealed in that bosom! little did I dream that I should have lived to see such disasters fallen upon her in a nation of gallant men, in a nation of men of honour, and of cavaliers! I thought ten thousand swords must have leaped from their scabbards to avenge even a look that threatened her with insult. But the age of chivalry is gone. That of sophisters, economists, and calculators has succeeded; and the glory of Europe is extinguished forever."<sup>1</sup>

Burke's political wisdom is well shown in his definition of government and of society: "Government is a contrivance of human wisdom to provide for human *wants*."<sup>2</sup> "Society is, indeed, a contract. . . . It is a partnership in all science, a partnership in all art, a partnership in every virtue and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who

<sup>1</sup> Burke's *Works*, III. 331.

<sup>2</sup> Burke's *Works*, III. 310.

are living, but between those who are living, those who are dead, and those who are to be born.”<sup>1</sup>

The influence of Burke's *Reflections* has not been confined to his contemporaries. Mr. Lecky says: “It is not too much to say that it contains pages of an eloquence which has never in any language been surpassed, and that no other English book affords so many lessons of enduring value to those who are engaged in the study either of the British Constitution or of the general principles of government. Together with the *Appeal from the New to the Old Whigs*, which is its supplement and its defence, it should be read, re-read, and thoroughly mastered by everyone who desires to acquire wide and deep views on political questions, and to understand the best English political philosophy of the eighteenth century.”<sup>2</sup>

The rest of Burke's life was spent in urging England to increase her defences against the possibility of a French invasion, and in denouncing the offers of peace made to France by the English ministers. These writings are of less importance. His anxiety overpowered his self-control. Morley says: “In splendour of rhetoric, in fine images, in sustention, in irony, they surpass anything that Burke wrote; but of the qualities and principles that, far more than his rhetoric, have made Burke so admirable and so great — of justice, of firm grasp of fact, of a reasonable sense of the probabilities of things — there are only traces enough to light up the gulfs of empty words, reckless phrases, and senseless vituperations, that surge and boil around them.”<sup>3</sup>

<sup>1</sup> Burke's *Works*, III. 359.

<sup>2</sup> Lecky's *England in 18th Century*, New York, 1892, VI. 390.

<sup>3</sup> Morley's *Burke*, p. 199.

In 1794 Burke retired from Parliament and was about to be rewarded for his long public services by being raised to the peerage with the title of Lord Beaconsfield. But his only son Richard died. Burke, in his sorrow, declined the peerage and accepted a pension of £3,700. This caused the Duke of Bedford and other sympathisers with France to criticise him in Parliament, and in 1796 Burke published a reply, or an apology for his life, in *A Letter to a Noble Lord*. In a noble passage on the death of his son, he wrote: "Had it pleased God to continue to me the hopes of succession, I should have been, according to my mediocrity and the mediocrity of the age I live in, a sort of founder of a family: I should have left a son, who, in all the points in which personal merit can be viewed, in science, in erudition, in genius, in taste, in honour, in generosity, in humanity, in every liberal sentiment and every liberal accomplishment, would not have shown himself inferior to the Duke of Bedford, or to any of those whom he traces in his line. . . . But a Disposer whose power we are little able to resist, and whose wisdom it behooves us not at all to dispute, has ordained it in another manner, and (whatever my querulous weakness might suggest) a far better. The storm has gone over me; and I lie like one of those old oaks which the late hurricane has scattered about me. I am stripped of all my honours, I am torn up by the roots, and lie prostrate on the earth. There, and prostrate there, I most unfeignedly recognise the divine justice, and in some degree submit to it. But whilst I humble myself before God, I do not know that it is forbidden to repel the attacks of unjust and inconsiderate men. . . . I



am alone. I have none to meet my enemies in the gate. . . . I live in an inverted order. They who ought to have succeeded me are gone before me. They who should have been to me as posterity are in the place of ancestors.”<sup>1</sup>

Two years later Burke died on the ninth of July, 1797, and was buried in the little church of Beaconsfield.

A concise and sensible estimate of Burke's work and political position is given by Mr. Lecky: "There is no political figure of the eighteenth century which retains so enduring an interest, or which repays so amply a careful study, as Edmund Burke. All other statesmen seem to belong wholly to the past; for though many of their achievements remain, the profound changes that have taken place in the conditions of English political life have destroyed the significance of their policy and their example. A few fine flashes of rhetoric, a few happy epigrams, a few laboured speeches which now seem cold, lifeless, and commonplace, are all that remain of the eloquence of the Pitts, of Fox, of Sheridan, or of Plunket. But of Burke it may be truly said, that there is scarcely any serious political thinker in England who has not learnt much from his writings, and whom he has not profoundly influenced either in the way of attraction or in the way of repulsion. As an orator, he has been surpassed by some, as a practical politician he has been surpassed by many, and his judgments of men and things were often deflected by violent passions, by strong antipathies, by party spirit, by exaggerated sensibility, by a strength of imagination and of affection, which contin-

<sup>1</sup> Burke's *Works*, V. 207, 208.

ually invested particular objects with a halo of superstitious reverence. But no other politician or writer has thrown the light of so penetrating a genius on the nature and workings of the British Constitution, has impressed his principles so deeply on both of the great parties in the State, and has left behind him a richer treasure of political wisdom applicable to all countries and to all times. He had a peculiar gift of introducing into transient party conflicts observations drawn from the most profound knowledge of human nature, of the first principles of government and legislation, and of the more subtle and remote consequences of political institutions, and there is perhaps no English prose writer since Bacon whose works are so thickly starred with thought. The time may come when they will be no longer read. The time will never come in which men would not grow the wiser by reading them.”<sup>1</sup>

## II

### BURKE AND THE AMERICAN REVOLUTION.

It is difficult to determine the relative merit of Burke's writings. William Hazlitt says: “There is no single speech of Mr. Burke which can convey a satisfactory idea of his powers of mind: to do him justice, it would be necessary to quote all his works; the only specimen of Burke is *all that he wrote*.”<sup>2</sup> Burke's *Reflections on the Revolution in France* is probably his best known work, as Mr. Lecky has said. Matthew Arnold, however, gives

<sup>1</sup> Lecky's *England in 18th Century*, III. 381-382.

<sup>2</sup> Wm. Hazlitt: *Sketches and Essays*, London, 1872, p. 408.

precedence to Burke's writings for Ireland: "Burke is the greatest of our political thinkers and writers. But his political thinking and writing has more value on some subjects than on others; the value is at its highest when the subject is Ireland."<sup>1</sup>

Here in America it is natural that Burke's American speeches should be most popular, and in this opinion many Englishmen agree. John Morley says: "Of all Burke's writings none are so fit to secure unqualified and unanimous admiration as the three pieces on this momentous struggle: the Speech on American Taxation (April 19, 1774); the Speech on Conciliation with America (March 22, 1775); and the Letter to the Sheriffs of Bristol (1777). . . . It is no exaggeration to say that they compose the most perfect manual in our literature, or in any literature, for one who approaches the study of public affairs, whether for knowledge or for practice. They are an example without fault of all the qualities which the critic, whether a theorist, or an actor, of great political situations should strive by night and by day to possess. . . . If their subject were as remote as the quarrel between the Corinthians and Corcyra, or the war between Rome and the Allies, instead of a conflict to which the world owes the opportunity of the most important of political experiments, we should still have everything to learn from the author's treatment; the vigorous grasp of masses of compressed detail, the wide illumination from great principles of human experience, the strong and masculine feeling for the two great political ends of Justice and

<sup>1</sup> *Edmund Burke on Ireland*, edited by M. Arnold, London, 1881, p. vi.

Freedom, the large and generous interpretation of expediency, the morality, the vision, the noble temper.”<sup>1</sup>

Burke was not vainly boasting when he wrote: “I think I know America. If I do not, my ignorance is incurable, for I have spared no pains to understand it.”<sup>2</sup> “The first session I sat in Parliament, I found it necessary to analyse the whole commercial, financial, constitutional, and foreign interests of Great Britain and its empire.”<sup>3</sup> One of his earliest publications was *An Account of the European Settlements in America*, which is still an authority for the early colonies and trade; a book which George Washington put into his own library. The early volumes of the *Annual Register* are full of references to the colonies.

Burke was personally interested in America. In 1755 he had a serious intention of emigrating to America where a place of credit in one of the provinces had been offered to him, but his father persuaded him to remain in England. Two years later in apologising to his old school-mate, Richard Shackleton, for not answering letters, Burke wrote: “What appearance there may have been of neglect, arose from my manner of life: chequered with various designs; sometimes in London, sometimes in remote parts of the country; sometimes in France, and shortly, please God, to be in America.”<sup>4</sup> He did not go to America; but from 1771 to the outbreak of the Revolution he acted as agent for the colony of New York, receiving a salary of £500 a year.

<sup>1</sup> Morley's *Burke*, p. 78.

<sup>2</sup> See page 22.

<sup>3</sup> Burke's *Works*, V. 191.

<sup>4</sup> Burke's *Correspondence*, I. 32.

When Burke first entered Parliament, he was plunged into the thick of the struggle with the colonies. At the close of the French and Indian War in 1763, the Prime Minister, George Grenville, determined that a revenue should be raised in the colonies toward paying for the war and for the standing army which it was thought wise to maintain in America. He attempted to impose a small stamp tax on all legal papers used in the colonies. The colonists, well educated in law as Burke pointed out, indignantly opposed the principle of this tax as contrary to their rights as Englishmen, affirming that they could not lawfully be taxed by a House of Commons in which they were not represented. So violent was their resistance, that the first work of the Rockingham ministry was to repeal the Stamp Act. Unfortunately this ministry was not strong and was forced to resign in the summer of 1766. The succeeding ministry, led by Charles Townshend in 1767 passed a bill which imposed small duties on all tea, paper, glass, red lead, white lead, and painters' colours exported to the colonies. The colonists at once agreed among themselves not to import any goods from England as long as these duties were in force. These non-importation agreements lessened the trade of the English merchants so much that they joined with the Whigs and in 1770 repealed all the duties except that on tea.

This small tea duty was enough to keep up the irritation of the colonists. But no serious act of opposition occurred until late in 1773, when the citizens of Boston threw into the harbour a ship-load of tea which the English had attempted to land. Angered by the news of this

Boston Tea Party, Parliament closed the harbour of Boston and annulled the charter of Massachusetts. Some of the more moderate members of the House of Commons tried to prevent further violence by proposing the repeal of the duty on tea. Burke supported the motion in his speech on *American Taxation*, in which he reviewed the history of the attempts to tax the colonies, which he satirised as mere makeshifts. The motion was badly defeated.

In less than a year Burke made another effort to urge measures of conciliation. But the enraged legislators were in no mood to be convinced by the arguments of his speech on *Conciliation with America* and his resolutions of conciliation were defeated by a vote of 270 to 78. Although on the same subject, these two speeches were very different. Prof. Goodrich says: "His 'standpoint' in the first was *England*. His topics were the inconsistency and folly of the ministry in their 'miserable circle of occasional arguments and temporary expedients' for raising a revenue in America. His object was to recall the House to the original principles of the English colonial system — that of *regulating* the trade of the colonies, and making it subservient to the interests of the mother country, while in other respects she left them 'every characteristic mark of a free people in all their internal concerns.' His 'standpoint' in the second speech was *America*. His topics were her growing population, agriculture, commerce, and fisheries; the causes of her fierce spirit of liberty; the impossibility of repressing it by force; and the consequent necessity of some concession on the part of England. His object was (waiving all abstract questions about the right of taxation) to show that Parliament

ought 'to admit the people of the colonies into an interest in the Constitution,' by giving them (like Ireland, Wales, Chester, and Durham) a share in the representation; and to do this, by leaving internal taxation to the colonial Assemblies, since no one could think of an actual representation of America in Parliament at the distance of three thousand miles. The two speeches were equally diverse in their spirit. The first was in a strain of incessant attack, full of the keenest sarcasm, and shaped from beginning to end for the purpose of putting down the ministry. The second, like the plan it proposed, was conciliatory; temperate and respectful toward Lord North [the Prime Minister]; designed to inform those who were ignorant of the real strength and feelings of America; instinct with the finest philosophy of man and of social institutions; and intended, if possible, to lead the House, *through* Lord North's scheme, into a final adjustment of the dispute on the true principles of English liberty."<sup>1</sup>

Burke was at this time representative in the House of Commons for the important commercial city of Bristol. In 1774 the Whigs of Bristol had become dissatisfied with their representatives, who seemed to be little interested in their affairs and opinions. Several of the leading merchants trading with the colonies asked Burke to become a candidate. After an exciting contest he was elected one of Bristol's two representatives.

Burke, however, never was popular at Bristol. He knew only a few of the citizens, and he seemed to neglect the means of gaining popularity. After his election had been confirmed by the House of Commons, he refused to

<sup>1</sup> C. A. Goodrich: *Select British Eloquence*, New York, 1852, p. 215.

return to Bristol with his colleague to be "chaired," to take part in the triumphal celebration of his supporters. During the six years in which he represented Bristol, he visited it only three times.

The men of Bristol did not like his speeches in favour of admitting the Roman Catholics to the privileges of citizenship; they revived the old story that he was a Jesuit. His support of the Roman Catholics and of the Dissenters was the result of his natural tolerance in religion which had been strengthened by the circumstances of his life. His schoolmaster had been a Quaker; his mother and his wife had been educated in the Roman Catholic faith. Burke himself was a staunch Protestant.

Burke proved to be even more independent than his predecessors of the instructions of his constituents. On the very day of his election, he had frankly told them that he would act in Parliament as he thought best, perhaps not as they wished. "Certainly, gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinions high respect; their business unremitting attention. It is his duty to sacrifice his repose, his pleasure, his satisfactions, to theirs,—and above all, ever, and in all cases, to prefer their interest to his own. But his unbiassed opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure,—no, nor from the law and the Constitution. They are a trust from Providence, for the abuse of



which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.”<sup>1</sup>

The test of these principles soon came. The outbreak of the American war greatly crippled the trade of Bristol; and the majority of the merchants became anxious that England should speedily put down the Revolution. Contrary to their wishes, Burke continued to oppose the efforts of the ministry. In 1778 the House of Commons proposed to relax some of the unjust restrictions upon Irish commerce. The merchants of Bristol, fearing another decrease in their trade, protested against the bill, and even ordered Burke to defeat it. Burke disregarded these instructions and supported the bill, writing to his constituents that he could not uphold the selfish interests of Bristol at the sacrifice of those of all Great Britain.

Another cause of Burke's unpopularity resulted from the attempt made early in 1777 to burn the vessels, quays, and warehouses of Bristol. When captured, the incendiary, “Jack the Painter,” declared that he was an American. Immediately it was asserted, without a vestige of truth or reason, that Burke's support of the colonies was responsible for the crime.

Burke's voluntary absence from the House of Commons was also the cause of much criticism in Bristol. He felt that the ineffective opposition in the Commons was of no avail and served only to drive the ministry to harsher measures. When the Commons was considering a suspension of the Habeas Corpus Act during the Amer-

<sup>1</sup> Burke's *Works*, II. 95.

ican war, Burke and many friends stayed away from the sessions. His action was misunderstood even by his friends in Bristol, who wrote to him for an explanation. In a personal letter to Richard Champion, 21 Feb. 1777, Burke said: "We shall publish no declaration. I am sorry for it, though many are of opinion that the time does not serve. I believe I shall write to you at Bristol. Many ask why I did not attend the *habeas-corpus*;— because I did not like the bill, nor any of the proposed or accepted amendments; and I should have the former to oppose against the majority, and the latter against a great part of the minority. I stay away from this, as I do from all public business, because I know I can do no sort of good by attending; but think, and am sure, I should do the work of that faction which is ruining us, by keeping up debate, and helping to make those things plausible for a time which are destructive in their nature. The House never made so poor a figure as in the debate on that bill. . . . Never was a business so disgraceful to any government." <sup>1</sup>

Champion immediately urged Burke to make the public declaration and the result was the *Letter to the Sheriffs of Bristol*. Burke went down to his quiet home at Beaconsfield, and after ten days wrote to Champion, 3 April, 1777: "I sent to town, this morning, my letter to the sheriff of Bristol, fairly copied out, and with such corrections as the time would admit. Indeed, the continual interruptions under which it was written, required a much more accurate revisal. But if it is likely to be at all useful, it is far better that it should be early in its ap-

<sup>1</sup> Burke's *Correspondence*, II. 148.

pearance than late, with such perfection as I am capable of giving it; which is undoubtedly such as never could compensate for any delay.

"I have shown the letter to Lord Rockingham, Mr. Fox, Sir George Saville, and to Mr. Ellis. They are all of opinion it may be of considerable use. . . .

"You will be so good as to communicate the paper to the sheriffs; but so as to lose as little time as possible in the publication. I think neither of them will differ from me in opinion very materially; but if they should, they are not responsible for the sentiments of any person who chooses to address a letter to them. In the general line of politics we must be of nearly the same way of thinking. I know that some of our friends are fearful of giving offence to the Tories. If we did so by any indecent personality, we should be greatly to blame. But we ought not to omit any means of strengthening, encouraging, or informing our friends, for fear of displeasing those whom no management can ever reconcile to our way of thinking. When we speak only of things, not persons, we have a right to express ourselves with all possible energy; and if any one is offended, he only shows how improper that conduct has been, which he cannot bear to be represented in its true colours. Besides, this little piece, though addressed to my constituents, is written to the public. Would to God that there were none of the factious addresses to be found anywhere else than in Bristol! Many things want to be explained to the nation, which they either never have adverted to, or forget in the rapid succession of the late unhappy events."<sup>1</sup>

<sup>1</sup> *Burke's Correspondence*, II. 149.

Although the *Letter to the Sheriffs of Bristol* was frequently reprinted, it did not reconcile Burke's constituents to his public conduct. When the next election was held in 1780, a strong opposition had formed against him, supported by a contribution of £1,000 from George III. Burke saw the futility of the chances of his election and resigned the nomination. He later was elected representative for the small town of Malton.

In his farewell speech to his constituents in Bristol, Burke well said: "Gentlemen, on this serious day, when I come, as it were, to make up my account with you, let me take to myself some degree of honest pride on the nature of the charges that are against me. I do not here stand before you accused of venality, or of neglect of duty. It is not said, that, in the long period of my service, I have, in a single instance, sacrificed the slightest of your interests to my ambition or to my fortune. It is not alleged, that, to gratify any anger or revenge of my own, or of my party, I have had a share in wronging or oppressing any description of men, or any one man in any description. No! the charges against me are all of one kind: that I have pushed the principles of general justice and benevolence too far,—further than a cautious policy would warrant, and further than the opinions of many would go along with me. In every accident which may happen through life, in pain, in sorrow, in depression, and distress, I will call to mind this accusation, and be comforted." <sup>1</sup>

<sup>1</sup> Burke's *Works*, II. 422.

## III

THE WRIT OF HABEAS CORPUS.<sup>1</sup>

Habeas Corpus is the term applied to a writ directed to the person detaining another and commanding him to produce the body of the prisoner at a certain time and place, to submit to whatever decision the court awarding the writ may determine. It is the most famous writ in the law; and having been used for many centuries to remove illegal restraint on personal liberty, it is often called the Great Writ of Liberty. It takes its name from the characteristic words it contained when the processes of the English Law were written in Latin:—

“Præcipimus tibi quod *corpus* A. B. in custodia vestra detentum, ut dicitur, una cum causa captionis et detentionis suæ, quocunque nomine idem A. B. censeatur in eadem, *habeas* coram nobis apud Westm. etc., ad subjiciendum et recipiendum ea quæ curia nostra de eo ad tunc et ibidem ordinari contigerit in hac parte, etc.

The date of the origin of the writ cannot now be ascertained. In the early days of the Common Law, there were various writs employed in which the phrase, “habeas corpus,” was used, and the principle upon which it is issued was understood and applied by the judges during the War of the Roses. The earliest precedents where it

<sup>1</sup> This account of THE WRIT OF HABEAS CORPUS was written by Franklin Spencer Edmonds, Professor of Political Science, Central High School, and a member of the Philadelphia Bar.

was used against the crown are in the reign of Henry VII. Afterwards its use became more frequent, and, in the time of Charles I., it was an admitted constitutional remedy. The celebrated Act of Habeas Corpus of 1679 provided additional safeguards to insure a due observance of the principle of the writ, and also carefully specified the procedure in certain cases. It was universally regarded as a great advance in the development of English liberty, and one author declared that its passage "extinguished all the resources of oppression."

The English colonies in America regarded the privilege of the writ as one of the "dearest birthrights of Britons," and it was frequently resorted to. The American colonists frequently claimed that they possessed all the rights, liberties and immunities of free and natural-born subjects within the realm of England. This assertion was endorsed in Parliament, where it was stated at one time that the Americans "were the sons, not the bastards of England." Eminent authorities have held that the privilege of the writ of habeas corpus did not extend to the colonists until the reign of Queen Anne, when a statute was passed which expressly extended this privilege to the colonists. It is certain, however, that it was not unknown in the colonies prior to this time, and a few illustrations may be drawn from early American history.

In 1688-9, there occurred a famous case in New England, which arose out of the unsettled political conditions of the time. Among other towns which were obliged to raise money for the government was Ipswich, of which Rev. Mr. Wise was minister. A town meeting was called

to act on a requisition, and as the citizens doubted the authority of the governor and council to raise money in that way, they declined making the grant. Whereupon Mr. Wise and five others of the principal inhabitants of the town were arrested, charged with contempt and high misdemeanours. They demanded a "habeas corpus," which was denied. "After a tedious and harassing delay the prisoners were put upon their trial. They claimed the privileges secured to them as Englishmen by the Magna Charta and the laws of England. The chief justice, however, informed them that they must not expect that the laws of England would follow them to the ends of the earth, and concluded by telling them that they had no more privileges left them than not to be sold as slaves."<sup>1</sup> A verdict was rendered against them, but this doctrine that the English laws did not follow the New Englanders, aroused strong protest in Massachusetts.

In New Jersey, in 1710, the Assembly denounced one of the judges, William Pinhome, for having corruptly refused the writ of habeas corpus to Thomas Gordon, which they said was "the undoubted right and the great privilege of the subject." In Pennsylvania, while the Council exercised the power of discharging from illegal imprisonment upon petition, they sometimes referred such applications to the county courts as the proper tribunals to afford relief.

In New York, in January 1707, Makemie and Hampton, two Presbyterian ministers, were arrested on the warrant of the governor, for preaching without a license. They refused to give bond or security that they would

<sup>1</sup> Washburn's *Judicial History of Massachusetts*.

preach no more in that jurisdiction, so they were committed to prison under the governor's warrant, which simply directed the prisoners to be safely kept until further notice and did not even attempt to designate any offence. On March 8 Chief Justice Mompesson allowed the prisoners writs of habeas corpus, but before they could be served the sheriff was given another warrant containing a statement of the offence. On this the prisoners were admitted to bail.

These cases are sufficient to illustrate the tendency in the American mind to appeal to this writ, as a protection to personal liberty.

The refusal of the Parliament in 1774 to extend the law of habeas corpus to Canada was denounced by the First Continental Congress in September of that year as oppressive, and was subsequently recounted in the Declaration of Independence as one of the manifestations on the part of the British Government of tyranny over the colonies.<sup>1</sup>

The Constitution of the United States provides that: "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Similar provisions are found in the constitutions of most of the states. The privilege of the writ is suspended by martial law, for that suspends all civil processes. During the Civil War President Lincoln suspended the privilege of the writ on

<sup>1</sup> Extract from the Declaration of Independence: "For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies."



his own authority without the sanction of an Act of Congress. This gave rise to a prolonged legal controversy and there was a strong opinion that the President had overstepped the limits of his rightful authority.

Such is the origin and record of what Blackstone terms "the most celebrated writ in English law." (See Wm. S. Church on "The Writ of Habeas Corpus.")

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# A LETTER, &c.

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GENTLEMEN,

I HAVE the honour of sending you the two last acts which have been passed with regard to the troubles in America. These acts are similar to all the rest which have been made on the same subject. They operate by the same principle; and they are derived from the very 5 same policy. I think they complete the number of this sort of statutes to nine. It affords no matter for very pleasing reflection to observe, that our subjects diminish, as our laws increase.

If I have the misfortune of differing with some of my 10 fellow-citizens on this great and arduous subject, it is no small consolation to me that I do not differ from you. With you I am perfectly united. We are heartily agreed in our detestation of a civil war. We have ever expressed the most unqualified disapprobation of all the steps which 15 have led to it, and of all those which tend to prolong it. And I have no doubt that we feel exactly the same emotions of grief and shame on all its miserable consequences; whether they appear, on the one side or the other, in the

shape of victories or defeats, of captures made from the English on the continent, or from the English in these islands; of legislative regulations which subvert the liberties of our brethren, or which undermine our own.

5 Of the first of these statutes (that for the letter of marque) I shall say little. Exceptionable as it may be, and as I think it is in some particulars, it seems the natural, perhaps necessary result of the measures we have taken, and the situation we are in. The other (for a partial  
10 suspension of the *Habeas Corpus*) appears to me of a much deeper malignity. During its progress through the House of Commons, it has been amended, so as to express, more distinctly than at first it did, the avowed sentiments of those who framed it: and the main  
15 ground of my exception to it is, because it does express, and does carry into execution, purposes which appear to me so contradictory to all the principles, not only of the constitutional policy of Great Britain, but even of that species of hostile justice, which no asperity of war  
20 wholly extinguishes in the minds of a civilized people.

It seems to have in view two capital objects; the first, to enable administration to confine, as long as it shall think proper, those whom that act is pleased to qualify by the name of *pirates*. Those so qualified I understand  
25 to be the commanders and mariners of such privateers and ships of war belonging to the colonies, as in the course of this unhappy contest may fall into the hands of the crown. They are therefore to be detained in prison, under the criminal description of piracy, to a  
30 future trial and ignominious punishment, whenever circumstances shall make it convenient to execute vengeance

on them, under the colour of that odious and infamous offence.

To this first purpose of the law I have no small dislike; because the act does not (as all laws and all equitable transactions ought to do) fairly describe its object. The 5 persons who make a naval war upon us, in consequence of the present troubles, may be rebels; but to call and treat them as pirates, is confounding, not only the natural distinction of things, but the order of crimes; which, whether by putting them from a higher part of the scale 10 to the lower, or from the lower to the higher, is never done without dangerously disordering the whole frame of jurisprudence. Though piracy may be, in the eye of the law, a *less* offence than treason; yet as both are, in effect, punished with the same death, the same forfeiture, 15 and the same corruption of blood, I never would take from any fellow-creature whatever any sort of advantage which he may derive to his safety from the pity of mankind, or to his reputation from their general feelings, by degrading his offence, when I cannot soften his pun- 20 ishment. The general sense of mankind tells me, that those offences, which may possibly arise from mistaken virtue, are not in the class of infamous actions. Lord Coke, the oracle of the English law, conforms to that general sense where he says, that "those things which 25 are of the highest criminality may be of the least disgrace." The act prepares a sort of masked proceeding, not honourable to the justice of the kingdom, and by no means necessary for its safety. I cannot enter into it. If Lord Balmerino, in the last rebellion, had driven off 30 the cattle of twenty clans, I should have thought it would

have been a scandalous and low juggle, utterly unworthy of the manliness of an English judicature, to have tried him for felony as a stealer of cows.

Besides, I must honestly tell you, that I could not  
5 vote for, or countenance in any way, a statute, which stigmatises, with the crime of piracy, these men, whom an act of parliament had previously put out of the protection of the law. When the legislature of this kingdom had ordered all their ships and goods, for the mere new-  
10 created offence of exercising trade, to be divided as a spoil among the seamen of the navy,—to consider the necessary reprisal of an unhappy, proscribed, interdicted people, as the crime of piracy, would have appeared, in any other legislature than ours, a strain of the most in-  
15 sulting and most unnatural cruelty and injustice. I assure you I never remember to have heard of anything like it in any time or country.

The second professed purpose of the act is, to detain in England for trial those who shall commit high treason  
20 in America.

That you may be enabled to enter into the true spirit of the present law, it is necessary, gentlemen, to apprise you, that there is an act, made so long ago as in the reign of Henry the Eighth, before the existence or thought  
25 of any English colonies in America, for the trial in this kingdom of treasons committed out of the realm. In the year 1769, parliament thought proper to acquaint the crown with their construction of that act in a formal address, wherein they entreated his Majesty to cause persons, charged with high treason in America, to be brought  
30 into this kingdom for trial. By this act of Henry the



Eighth, *so construed and so applied*, almost all that is substantial and beneficial in a trial by jury is taken away from the subject in the colonies. This is however saying too little; for to try a man under that act is, in effect, to condemn him unheard. A person is brought hither in 5 the dungeon of a ship's hold; thence he is vomited into a dungeon on land; loaded with irons, unfurnished with money, unsupported by friends, three thousand miles from all means of calling upon or confronting evidence, where no one local circumstance that tends to detect perjury, 10 can possibly be judged of;—such a person may be executed according to form, but he can never be tried according to justice.

I therefore could never reconcile myself to the bill I send you; which is expressly provided to remove all in- 15 conveniences from the establishment of a mode of trial, which has ever appeared to me most unjust and most unconstitutional. Far from removing the difficulties which impede the execution of so mischievous a project, I would heap new difficulties upon it, if it were in my 20 power. All the ancient, honest, juridical principles and institutions of England are so many clogs to check and retard the headlong course of violence and oppression. They were invented for this one good purpose, that what was not just should not be convenient. Convinced 25 of this, I would leave things as I found them. The old, cool-headed, general law, is as good as any deviation dictated by present heat.

I could see no fair, justifiable expedience pleaded to favour this new suspension of the liberty of the subject. 30 If the English in the colonies can support the independ-

ency, to which they have been unfortunately driven, I suppose nobody has such a fanatical zeal for the criminal justice of Henry the Eighth, that he will contend for executions which must be retaliated tenfold on his own  
5 friends; or who has conceived so strange an idea of English dignity, as to think the defeats in America compensated by the triumphs at Tyburn. If, on the contrary, the colonies are reduced to the obedience of the crown, there must be, under that authority, tribunals in  
10 the country itself, fully competent to administer justice on all offenders. But if there are not, and that we must suppose a thing so humiliating to our government, as that all this vast continent should unanimously concur in thinking, that no ill fortune can convert resistance to  
15 the royal authority into a criminal act, we may call the effect of our victory peace, or obedience, or what we will; but the war is not ended; the hostile mind continues in full vigour, and it continues under a worse form. If your peace be nothing more than a sullen pause from arms;  
20 if their quiet be nothing but the meditation of revenge, where smitten pride smarting from its wounds, festers into new rancour, neither the act of Henry the Eighth, nor its handmaid of this reign, will answer any wise end of policy or justice. For if the bloody fields, which they  
25 saw and felt, are not sufficient to subdue the reason of America (to use the expressive phrase of a great lord in office) it is not the judicial slaughter, which is made in another hemisphere against their universal sense of justice, that will ever reconcile them to the British government.  
30

I take it for granted, gentlemen, that we sympathise

in a proper horror of all punishment further than as it serves for an example. To whom then does the example of an execution in England for this American rebellion apply? Remember, you are told every day, that the present is a contest between the two countries; and that 5 we in England are at war for *our own* dignity against our rebellious children. Is this true? If it be, it is surely among such rebellious children that examples for disobedience should be made, to be in any degree instructive: for who ever thought of teaching parents their duty 10 by an example from the punishment of an undutiful son? As well might the execution of a fugitive negro in the plantations be considered as a lesson to teach masters humanity to their slaves. Such executions may indeed satiate our revenge; they may harden our hearts, and 15 puff us up with pride and arrogance. Alas! this is not instruction!

If anything can be drawn from such examples by a parity of the case, it is to show how deep their crime and how heavy their punishment will be, who shall at any 20 time dare to resist a distant power actually disposing of their property, without their voice or consent to the disposition; and overturning their franchises without charge or hearing. God forbid that England should ever read this lesson written in the blood of *any* of her off- 25 spring!

War is at present carried on between the king's natural and foreign troops on one side, and the English in America on the other, upon the usual footing of other wars; and accordingly an exchange of prisoners has been 30 regularly made from the beginning. If notwithstanding

this hitherto equal procedure, upon some prospect of ending the war with success (which however may be delusive) administration prepares to act against those as *traitors* who remain in their hands at the end of the  
5 troubles, in my opinion we shall exhibit to the world as indecent a piece of injustice as ever civil fury has produced. If the prisoners, who have been exchanged, have not by that exchange been *virtually pardoned*, the cartel (whether avowed or understood) is a cruel fraud; for you  
10 have received the life of a man, and you ought to return a life for it, or there is no parity or fairness in the transaction.

If, on the other hand, we admit, that they who are actually exchanged are pardoned, but contend that you  
15 may justly reserve for vengeance those who remain unchanged; then this unpleasant and unhandsome consequence will follow; that you judge of the delinquency of men merely by the time of their guilt, and not by the heinousness of it; and you make fortune and accidents,  
20 and not the moral qualities of human action, the rule of your justice.

These strange incongruities must ever perplex those, who confound the unhappiness of civil dissensions with the crime of treason. Whenever a rebellion really and  
25 truly exists, which is as easily known in fact, as it is difficult to define in words, government has not entered into such military conventions; but has ever declined all intermediate treaty, which should put rebels in possession of the law of nations with regard to war. Commanders  
30 would receive no benefits at their hands, because they could make no return for them. Who has ever heard

of capitulation, and parole of honour, and exchange of prisoners, in the late rebellions in this kingdom? The answer to all demands of that sort was, "We can engage for nothing; you are at the king's pleasure." We ought to remember, that if our present enemies be, in 5 reality and truth, rebels, the king's generals have no right to release them upon any conditions whatsoever; and they are themselves answerable to the law, and as much in want of a pardon for doing so, as the rebels whom they release.

Lawyers, I know, cannot make the distinction for which 10 I contend; because they have their strict rule to go by. But legislators ought to do what lawyers cannot; for they have no other rules to bind them, but the great principles of reason and equity, and the general sense of mankind. These they are bound to obey and follow; and rather to 15 enlarge and enlighten law by the liberality of legislative reason, than to fetter and bind their higher capacity by the narrow constructions of subordinate, artificial justice. If we had adverted to this, we never could consider the convulsions of a great empire, not disturbed by a 20 little disseminated faction, but divided by whole communities and provinces, and entire legal representatives of a people, as fit matter of discussion under a commission of Oyer and Terminer. It is as opposite to reason and prudence, as it is to humanity and justice. 25

This act, proceeding on these principles, that is, preparing to end the present troubles by a trial of one sort of hostility, under the name of piracy, and of another by the name of treason, and executing the act of Henry the Eighth according to a new and unconstitutional inter- 30 pretation, I have thought evil and dangerous, even though

the instruments of effecting such purposes had been merely of a neutral quality.

But it really appears to me, that the means which this act employs are, at least, as exceptionable as the end.  
 5 Permit me to open myself a little upon this subject, because it is of importance to me, when I am obliged to submit to the power without acquiescing in the reason of an act of legislature, that I should justify my dissent by such arguments as may be supposed to have weight  
 10 with a sober man.

The main operative regulation of the act is to suspend the common law, and the statute *Habeas Corpus*, (the sole securities either for liberty or justice) with regard to all those who have been out of the realm, or on the high  
 15 seas, within a given time. The rest of the people, as I understand, are to continue as they stood before.

I confess, gentlemen, that this appears to me as bad in the principle, and far worse in its consequence, than an universal suspension of the *Habeas Corpus* act; and  
 20 the limiting qualification, instead of taking out the sting, does in my humble opinion sharpen and envenom it to a greater degree. Liberty, if I understand it at all, is a *general* principle, and the clear right of all the subjects within the realm, or of none. Partial freedom seems to  
 25 me a most invidious mode of slavery. But, unfortunately, it is the kind of slavery the most easily admitted in times of civil discord; for parties are but too apt to forget their own future safety in their desire of sacrificing their enemies. People without much difficulty admit the  
 30 entrance of that injustice of which they are not to be the immediate victims. In times of high proceeding it

is never the faction of the predominant power that is in danger: for no tyranny chastises its own instruments. It is the obnoxious and the suspected who want the protection of law; and there is nothing to bridle the partial violence of state factions, but this; "that whenever an 5 act is made for a cessation of law and justice, the whole people should be universally subjected to the same suspension of their franchises." The alarm of such a proceeding would then be universal. It would operate as a sort of *Call of the nation*. It would become every man's 10 immediate and instant concern to be made very sensible of the *absolute necessity* of this total eclipse of liberty. They would more carefully advert to every renewal, and more powerfully resist it. These great determined measures are not commonly so dangerous to freedom. They 15 are marked with too strong lines to slide into use. No plea, nor pretence, of *inconvenience or evil example* (which must in their nature be daily and ordinary incidents) can be admitted as a reason for such mighty operations. But the true danger is, when liberty is nibbled 20 away, for expedients, and by parts. The *Habeas Corpus* act supposes, contrary to the genius of most other laws, that the lawful magistrate may see particular men with a malignant eye, and it provides for that identical case. But when men, in particular descriptions, marked out by 25 the magistrate himself, are delivered over by parliament to this possible malignity, it is not the *Habeas Corpus* that is occasionally suspended, but its spirit that is mistaken, and its principle that is subverted. Indeed nothing is security to any individual but the common interest of 30 all.

This act, therefore, has this distinguished evil in it, that it is the first *partial* suspension of the *Habeas Corpus* that has been made. The precedent, which is always of very great importance, is now established. For the  
5 first time a distinction is made among the people within this realm. Before this act, every man putting his foot on English ground, every stranger owing only a local and temporary allegiance, even negro slaves who had been sold in the colonies and under an act of parliament, be-  
10 came as free as every other man who breathed the same air with them. Now a line is drawn, which may be advanced further and further at pleasure, on the same argument of mere expedience, on which it was first described. There is no equality among us; we are not  
15 fellow-citizens, if the mariner, who lands on the quay, does not rest on as firm legal ground as the merchant who sits in his counting-house. Other laws may injure the community, this dissolves it. As things now stand, every man in the West Indies, every one inhabitant of  
20 three unoffending provinces on the continent, every person coming from the East Indies, every gentleman who has travelled for his health or education, every mariner who has navigated the seas, is, for no other offence, under a temporary proscription. Let any of these facts (now  
25 become presumptions of guilt) be proved against him, and the bare suspicion of the crown puts him out of the law. It is even by no means clear to me, whether the negative proof does not lie upon the person apprehended on suspicion, to the subversion of all justice.

30 I have not debated against this bill in its progress through the House; because it would have been vain to



oppose, and impossible to correct it. It is some time since I have been clearly convinced, that in the present state of things all opposition to any measures proposed by ministers, where the name of America appears, is vain and frivolous. You may be sure that I do not speak of my 5 opposition, which in all circumstances must be so; but that of men of the greatest wisdom and authority in the nation. Every thing proposed against America is supposed of course to be in favour of Great Britain. Good and ill success are equally admitted as reasons for per- 10 severing in the present methods. Several very prudent, and very well-intentioned persons were of opinion, that during the prevalence of such dispositions, all struggle rather inflamed than lessened the distemper of the public councils. Finding such resistance to be considered as 15 factious by most within doors, and by very many without, I cannot conscientiously support what is against my opinion, nor prudently contend with what I know is irresistible. Preserving my principles unshaken, I reserve my activity for rational endeavours; and I hope that my 20 past conduct has given sufficient evidence that if I am a single day from my place, it is not owing to indolence or love of dissipation. The slightest hope of doing good is sufficient to recall me to what I quitted with regret. In declining for some time my usual strict attendance, I do 25 not in the least condemn the spirit of those gentlemen, who, with a just confidence in their abilities, (in which I claim a sort of share from my love and admiration of them) were of opinion that their exertions in this desperate case might be of some service. They thought, that 30 by contracting the sphere of its application, they might

lessen the malignity of an evil principle. Perhaps they were in the right. But when my opinion was so very clearly to the contrary, for the reasons I have just stated, I am sure *my* attendance would have been ridiculous.

5 I must add in further explanation of my conduct, that, far from softening the features of such a principle, and thereby removing any part of the popular odium or natural terrors attending it, I should be sorry, that anything framed in contradiction to the spirit of our constitution  
10 did not instantly produce, in fact, the grossest of the evils, with which it was pregnant in its nature. It is by lying dormant a long time, or being at first very rarely exercised, that arbitrary power steals upon a people. On the next unconstitutional act, all the fashionable world  
15 will be ready to say—Your prophecies are ridiculous, your fears are vain, you see how little of the mischiefs which you formerly foreboded are come to pass. Thus, by degrees, that artful softening of all arbitrary power, the alleged infrequency or narrow extent of its opera-  
20 tion, will be received as a sort of aphorism—and Mr. *Hume* will not be singular in telling us, that the felicity of mankind is no more disturbed by it, than by earthquakes or thunder, or the other more unusual accidents of nature.

25 The act of which I speak is among the fruits of the American war; a war in my humble opinion productive of many mischiefs, of a kind which distinguish it from all others. Not only our policy is deranged, and our empire distracted, but our laws and our legislative spirit appear to have been totally perverted by it. We have made  
30 war on our colonies, not by arms only, but by laws. As

hostility and law are not very concordant ideas, every step we have taken in this business has been made by trampling on some maxim of justice, or some capital principle of wise government. What precedents were established, and what principles overturned, (I will not say of English 5 privilege, but of general justice) in the Boston Port, the Massachusetts Charter, the Military Bill, and all that long array of hostile acts of parliament, by which the war with America has been begun and supported! Had the principles of any of these acts been first exerted on English 10 ground, they would probably have expired as soon as they touched it. But by being removed from our persons, they have rooted in our laws, and the latest posterity will taste the fruits of them.

Nor is it the worst effect of this unnatural contention, 15 that our *laws* are corrupted. Whilst *manners* remain entire, they will correct the vices of law, and soften it at length to their own temper. But we have to lament, that in most of the late proceedings we see very few traces of that generosity, humanity, and dignity of mind, 20 which formerly characterised this nation. War suspends the rules of moral obligation, and what is long suspended is in danger of being totally abrogated. Civil wars strike deepest of all into the manners of the people. They vitiate their politics; they corrupt their morals; they pervert 25 even the natural taste and relish of equity and justice. By teaching us to consider our fellow-citizens in a hostile light, the whole body of our nation becomes gradually less dear to us. The very names of affection and kindred, which were the bond of charity whilst we agreed, 30 become new incentives to hatred and rage, when the com-

munion of our country is dissolved. We may flatter ourselves that we shall not fall into this misfortune. But we have no charter of exemption, that I know of, from the ordinary frailties of our nature.

- 5 What but that blindness of heart which arises from the phrensy of civil contention, could have made any persons conceive the present situation of the British affairs as an object of triumph to themselves, or of congratulation to their sovereign? Nothing surely could be more lamentable
- 10 to those who remember the flourishing days of this kingdom, than to see the insane joy of several unhappy people, amidst the sad spectacle which our affairs and conduct exhibit to the scorn of Europe. We behold (and it seems some people rejoice in beholding) our native land, which
- 15 used to sit the envied arbiter of all her neighbours, reduced to a servile dependence on their mercy; acquiescing in assurances of friendship which she does not trust; complaining of hostilities which she dares not resent; deficient to her allies; lofty to her subjects, and submis-
- 20 sive to her enemies; whilst the liberal government of this free nation is supported by the hireling sword of German boors and vassals; and three millions of the subjects of Great Britain are seeking for protection to English privileges in the arms of France!
- 25 These circumstances appear to me more like shocking prodigies, than natural changes in human affairs. Men of firmer minds may see them without staggering or astonishment.—Some may think them matters of congratulation and complimentary addresses; but I trust
- 30 your candour will be so indulgent to my weakness, as not to have the worse opinion of me for my declining to par-

participate in this joy; and my rejecting all share whatsoever in such a triumph. I am too old, too stiff in my inveterate partialities, to be ready at all the fashionable evolutions of opinion. I scarcely know how to adapt my mind to the feelings with which the court gazettes mean 5 to impress the people. It is not instantly that I can be brought to rejoice, when I hear of the slaughter and captivity of long lists of those names which have been familiar to my ears from my infancy, and to rejoice that they have fallen under the sword of strangers, whose barbarous appellations I scarcely know how to pronounce. The glory acquired at the White Plains by Colonel Raille has no charms for me; and I fairly acknowledge, that I have not yet learned to delight in finding Fort Kniphausen in the heart of the British dominions. 15

It might be some consolation for the loss of our old regards, if our reason were enlightened in proportion as our honest prejudices are removed. Wanting feelings for the honour of our country, we might then in cold blood be brought to think a little of our interests as individual 20 citizens, and our private conscience as moral agents.

Indeed our affairs are in a bad condition. I do assure those gentlemen who have prayed for war, and have obtained the blessing they have sought, that they are at this instant in very great straits. The abused wealth of this 25 country continues a little longer to feel its distemper. As yet they, and their German allies of twenty hireling states, have contended only with the unprepared strength of our own infant colonies. But America is not subdued. Not one unattacked village which was originally 30 adverse throughout that vast continent, has yet submitted

from love or terror. You have the ground you encamp on; and you have no more. The cantonments of your troops and your dominions are exactly of the same extent. You spread devastation, but you do not enlarge the sphere  
5 of authority.

The events of this war are of so much greater magnitude than those who either wished or feared it, ever looked for, that this alone ought to fill every considerate mind with anxiety and diffidence. Wise men often tremble at  
10 the very things which fill the thoughtless with security. For many reasons I do not choose to expose to public view all the particulars of the state in which you stood with regard to foreign powers, during the whole course of the last year. Whether you are yet wholly out of danger  
15 from them, is more than I know, or than your rulers can divine. But even if I were certain of my safety, I could not easily forgive those who had brought me into the most dreadful perils, because by accidents, unforeseen by them or me, I have escaped.

20 Believe me, gentlemen, the way still before you is intricate, dark, and full of perplexed and treacherous mazes. Those who think they have the clue may lead us out of this labyrinth. We may trust them as amply as we think proper; but as they have most certainly a call for all the  
25 reason which their stock can furnish, why should we think it proper to disturb its operation by inflaming their passions? I may be unable to lend an helping hand to those who direct the state; but I should be ashamed to make myself one of a noisy multitude to halloo and  
30 hearten them into doubtful and dangerous courses. A conscientious man would be cautious how he dealt in

blood. He would feel some apprehension at being called to a tremendous account for engaging in so deep a play, without any sort of knowledge of the game. It is no excuse for presumptuous ignorance, that it is directed by insolent passion. The poorest being that crawls on earth, 5 contending to save itself from injustice and oppression, is an object respectable in the eyes of God and man. But I cannot conceive any existence under heaven, (which, in the depths of its wisdom, tolerates all sorts of things) that is more truly odious and disgusting, than an im- 10 potent helpless creature, without civil wisdom or military skill, without a consciousness of any other qualification for power but his servility to it, bloated with pride and arrogance, calling for battles which he is not to fight, contending for a violent dominion which he can never 15 exercise, and satisfied to be himself mean and miserable, in order to render others contemptible and wretched.

If you and I find our talents not of the great and ruling kind, our conduct, at least, is conformable to our faculties. No man's life pays the forfeit of our rashness. 20 No desolate widow weeps tears of blood over our ignorance. Scrupulous and sober in our well-grounded distrust of ourselves, we would keep in the port of peace and security; and perhaps in recommending to others something of the same diffidence, we should show ourselves 25 more charitable in their welfare, than injurious to their abilities.

There are many circumstances in the zeal shown for civil war, which seem to discover but little of real magnanimity. The addressers offer their own persons, and 30 they are satisfied with hiring Germans. They promise

their private fortunes, and they mortgage their country. They have all the merit of volunteers, without risk of person or charge of contribution; and when the unfeeling arm of a foreign soldiery pours out their kindred blood  
5 like water, they exult and triumph as if they themselves had performed some notable exploit. I am really ashamed of the fashionable language which has been held for some time past; which, to say the best of it, is full of levity. You know that I allude to the general cry against the  
10 cowardice of the Americans, as if we despised them for not making the king's soldiery purchase the advantage they have obtained, at a dearer rate. It is not, gentlemen, it is not to respect the dispensations of Providence, nor to provide any decent retreat in the mutability of human  
15 affairs. It leaves no medium between insolent victory and infamous defeat. It tends to alienate our minds further and further from our natural regards, and to make an eternal rent and schism in the British nation. Those who do not wish for such a separation, would not dissolve  
20 that cement of reciprocal esteem and regard, which can alone bind together the parts of this great fabric. It ought to be our wish, as it is our duty, not only to forbear this style of outrage ourselves, but to make every one as sensible as we can of the impropriety and unworth-  
25 iness of the tempers which give rise to it, and which designing men are labouring with such malignant industry to diffuse amongst us. It is our business to counteract them, if possible; if possible, to awake our natural regards; and to revive the old partiality to the English  
30 name. Without something of this kind I do not see how it is ever practicable really to reconcile with those, whose



affection, after all, must be the surest hold of our government; and which is a thousand times more worth to us, than the mercenary zeal of all the circles of Germany.

I can well conceive a country completely overrun, and 5 miserably wasted, without approaching in the least to settlement. In my apprehension, as long as English government is attempted to be supported over Englishmen by the sword alone, things will thus continue. I anticipate in my mind the moment of the final triumph of foreign mili- 10 tary force. When that hour arrives, (for it may arrive) then it is, that all this mass of weakness and violence will appear in its full light. If we should be expelled from America, the delusion of the partisans of military government might still continue. They might still feed their 15 imaginations with the possible good consequences which might have attended success. Nobody could prove the contrary by facts. But in case the sword should do all that the sword can do, the success of their arms and the defeat of their policy will be one and the same thing. 20 You will never see any revenue from America. Some increase of the means of corruption, without ease of the public burthens, is the very best that can happen. Is it for this that we are at war; and in such a war?

As to the difficulties of laying once more the founda- 25 tions of that government, which, for the sake of conquering what was our own, has been voluntarily and wantonly pulled down by a court faction here, I tremble to look at them. Has any of these gentlemen, who are so eager to govern all mankind, showed himself possessed of the 30 first qualification towards government, some knowledge

of the object, and of the difficulties which occur in the task they have undertaken?

I assure you, that, on the most prosperous issue of your arms, you will not be where you stood, when you called  
5 in war to supply the defects of your political establishment. Nor would any disorder or disobedience to government which could arise from the most abject concession on our part, ever equal those which will be felt, after the most triumphant violence. You have got all the  
10 intermediate evils of war into the bargain.

I think I know America. If I do not, my ignorance is incurable, for I have spared no pains to understand it: and I do most solemnly assure those of my constituents who put any sort of confidence in my industry and integ-  
15 rity, that every thing that has been done there has arisen from a total misconception of the object: that our means of originally holding America, that our means of reconciling with it after quarrel, of recovering it after separation, of keeping it after victory, did depend, and must  
20 depend in their several stages and periods, upon a total renunciation of that unconditional submission, which has taken such possession of the minds of violent men. The whole of those maxims, upon which we have made and continued this war, must be abandoned. Nothing indeed,  
25 (for I would not deceive you) can place us in our former situation. That hope must be laid aside. But there is a difference between bad and the worst of all. Terms relative to the cause of the war ought to be offered by the authority of parliament. An arrangement at home prom-  
30 ising some security for them ought to be made. By doing this, without the least impairing of our strength, we add

to the credit of our moderation, which, in itself, is always strength more or less.

I know many have been taught to think, that moderation, in a case like this, is a sort of treason; and that all arguments for it are sufficiently answered by railing at 5 rebels and rebellion, and by charging all the present or future miseries, which we may suffer, on the resistance of our brethren. But I would wish them, in this grave matter, and if peace is not wholly removed from their hearts, to consider seriously, first, that to criminate and 10 recriminate never yet was the road to reconciliation, in any difference amongst men. In the next place, it would be right to reflect, that the American English (whom they may abuse, if they think it honourable to revile the absent) can, as things now stand, neither be provoked at our 15 railing, nor bettered by our instruction. All communication is cut off between us, but this we know with certainty, that, though we cannot reclaim them, we may reform ourselves. If measures of peace are necessary, they must begin somewhere; and a conciliatory temper 20 must precede and prepare every plan of reconciliation. Nor do I conceive that we suffer anything by thus regulating our own minds. We are not disarmed by being disencumbered of our passions. Declaiming on rebellion never added a bayonet, or a charge of powder, to your military 25 force; but I am afraid that it has been the means of taking up many muskets against you.

This outrageous language, which has been encouraged and kept alive by every art, has already done incredible mischief. For a long time, even amidst the desolations of 30 war, and the insults of hostile laws daily accumulated on

one another, the American leaders seem to have had the greatest difficulty in bringing up their people to a declaration of total independence. But the court gazette accomplished what the abettors of independence had attempted  
5 in vain. When that disingenuous compilation, and strange medley of railing and flattery, was adduced, as a proof of the united sentiments of the people of Great Britain, there was a great change throughout all America. The tide of popular affection, which had still set towards  
10 the parent country, began immediately to turn, and to flow with great rapidity in a contrary course. Far from concealing these wild declarations of enmity, the author of the celebrated pamphlet, which prepared the minds of the people for independence, insists largely on the multi-  
15 tude and the spirit of these addresses; and he draws an argument from them, which (if the fact were as he supposes) must be irresistible. For I never knew a writer on the theory of government so partial to authority as not to allow, that the hostile mind of the rulers to their people  
20 did fully justify a change of government; nor can any reason whatever be given, why one people should voluntarily yield any degree of pre-eminence to another, but on a supposition of great affection and benevolence towards them. Unfortunately your rulers, trusting to other  
25 things, took no notice of this great principle of connexion. From the beginning of this affair, they have done all they could to alienate your minds from your own kindred; and if they could excite hatred enough in one of the parties towards the other, they seemed to be of opinion  
30 that they had gone half the way towards reconciling the quarrel.

I know it is said, that your kindness is only alienated on account of their resistance; and therefore if the colonies surrender at discretion, all sort of regard, and even much indulgence, is meant towards them in future. But can those who are partisans for continuing a war to enforce 5 such a surrender be responsible (after all that has passed) for such a future use of a power, that is bound by no compacts, and restrained by no terror? Will they tell us what they call indulgences? Do they not at this instant call the present war and all its horrors, a lenient and merciful 10 proceeding?

No conqueror, that I ever heard of, has *professed* to make a cruel, harsh, and insolent use of his conquest. No! The man of the most declared pride, scarcely dares to trust his own heart with this dreadful secret of am- 15 bition. But it will appear in its time; and no man, who professes to reduce another to the insolent mercy of a foreign arm, ever had any sort of good-will towards him. The profession of kindness, with that sword in his hand, and that demand of surrender, is one of the most provok- 20 ing acts of his hostility. I shall be told, that all this is lenient as against rebellious adversaries. But are the leaders of their faction more lenient to those who submit? Lord Howe and General Howe have powers, under an act of parliament, to restore to the king's peace and 25 to free trade any men, or district, which shall submit. Is this done? We have been over and over informed by the authorised gazette, that the city of New York, and the countries of Staten and Long Island have submitted voluntarily and cheerfully, and that many are very full 30 of zeal to the cause of administration. Were they instant-

ly restored to trade? Are they yet restored to it? Is not the benignity of two commissioners, naturally most humane and generous men, some way fettered by instructions, equally against their dispositions and the spirit of parliamentary faith; when Mr. Tryon, vaunting of the fidelity of the city in which he is governor, is obliged to apply to ministry for leave to protect the king's loyal subjects, and to grant to them (not the disputed rights and privileges of freedom) but the common rights of men, by the name of *graces*? Why do not the commissioners restore them on the spot? Were they not named as commissioners for that express purpose? But we see well enough to what the whole leads. The trade of America is to be dealt out in *private indulgences and graces*; that is, in jobs to recompense the incendiaries of war. They will be informed of the proper time in which to send out their merchandise. From a national, the American trade is to be turned into a personal monopoly: and one set of merchants are to be rewarded for the pretended zeal, of which another set are the dupes; and thus, between craft and credulity, the voice of reason is stifled; and all the misconduct, all the calamities of the war are covered and continued.

If I had not lived long enough to be little surprised at anything, I should have been in some degree astonished at the continued rage of several gentlemen, who, not satisfied with carrying fire and sword into America, are animated nearly with the same fury against those neighbours of theirs, whose only crime it is, that they have charitably and humanely wished them to entertain more reasonable sentiments, and not always to sacrifice their in-

terest to their passion. All this rage against unresisting dissent convinces me, that, at bottom, they are far from satisfied they are in the right. For what is it they would have? A war? They certainly have at this moment the blessing of something that is very like one; and if the 5 war they enjoy at present be not sufficiently hot and extensive, they may shortly have it as warm and as spreading as their hearts can desire. Is it the force of the kingdom they call for? They have it already; and if they choose to fight their battles in their own person, nobody 10 prevents their setting sail to America in the next transports. Do they think, that the service is stinted for want of liberal supplies? Indeed they complain without reason. The table of the House of Commons will glut them, let their appetite for expense be never so keen. And I assure 15 them further, that those who think with them in the House of Commons are full as easy in the control, as they are liberal in the vote, of these expenses. If this be not supply or confidence sufficient, let them open their own private purse strings, and give, from what is left to them, as 20 largely and with as little care as they think proper.

Tolerated in their passions, let them learn not to persecute the moderation of their fellow-citizens. If all the world joined them in a full cry against rebellion, and were as hotly inflamed against the whole theory and enjoyment 25 of freedom, as those who are the most factious for servitude, it could not in my opinion answer any one end whatsoever in this contest. The leaders of this war could not hire (to gratify their friends) one German more than they do; or inspire him with less feeling for the persons, or 30 less value for the privileges, of their revolted brethren.

If we all adopted their sentiments to a man, their allies, the savage Indians, could not be more ferocious than they are: they could not murder one more helpless woman or child, or with more exquisite refinements of cruelty torment to death one more of their English flesh and blood, than they do already. The public money is given to purchase this alliance;— and they have their bargain.

They are continually boasting of unanimity; or calling for it. But before this unanimity can be matter either of wish or congratulation, we ought to be pretty sure, that we are engaged in a rational pursuit. Phrensy does not become a slighter distemper on account of the number of those who may be infected with it. Delusion and weakness produce not one mischief the less, because they are universal. I declare, that I cannot discern the least advantage which could accrue to us, if we were able to persuade our colonies that they had not a single friend in Great Britain. On the contrary, if the affections and opinions of mankind be not exploded as principles of connexion, I conceive it would be happy for us, if they were taught to believe, that there was even a formed American party in England, to whom they could always look for support! Happy would it be for us, if, in all tempers, they might turn their eyes to the parent state; so that their very turbulence and sedition should find vent in no other place than this. I believe there is not a man (except those who prefer the interest of some paltry faction to the very being of their country) who would not wish that the Americans should from time to time carry many points, and even some of them not quite reasonable, by the aid of any denomination of men here, rather than they should be driven



to seek for protection against the fury of foreign mercenaries, and the waste of savages, in the arms of France.

When any community is subordinately connected with another, the great danger of the connexion is the extreme pride and self-complacency of the superior, which in all 5 matters of controversy will probably decide in its own favour. It is a powerful corrective to such a very rational cause of fear, if the inferior body can be made to believe, that the party inclination, or political views, of several in the principal state, will induce them in some degree 10 to counteract this blind and tyrannical partiality. There is no danger that any one acquiring consideration or power in the presiding state should carry this leaning to the inferior too far. The fault of human nature is not of that sort. Power in whatever hands is rarely guilty of too 15 strict limitations on itself. But one great advantage to the support of authority attends such an amicable and protecting connexion, that those who have conferred favours obtain influence; and from the foresight of future events can persuade men, who have received obligations, 20 sometimes to return them. Thus by the mediation of those healing principles, (call them good or evil) troublesome discussions are brought to some sort of adjustment; and every hot controversy is not a civil war.

But, if the colonies (to bring the general matter home 25 to us) could see, that, in Great Britain, the mass of the people is melted into its government, and that every dispute with the ministry must of necessity be always a quarrel with the nation; they can stand no longer in the equal and friendly relation of fellow-citizens to the sub- 30 jects of this kingdom. Humble as this relation may ap-

pear to some, when it is once broken, a strong tie is dissolved. Other sort of connexions will be sought. For, there are very few in the world, who will not prefer an useful ally to an insolent master.

- 5 Such discord has been the effect of the unanimity into which so many have of late been seduced or bullied, or into the appearance of which they have sunk through mere despair. They have been told that their dissent from violent measures is an encouragement to rebellion.
- 10 Men of great presumption and little knowledge will hold a language which is contradicted by the whole course of history. *General* rebellions and revolts of a whole people never were *encouraged*, now or at any time. They are always *provoked*. But if this unheard-of doctrine of the
- 15 encouragement of rebellion were true, if it were true that an assurance of the friendship of numbers in this country towards the colonies could become an encouragement to them to break off all connexion with it, what is the inference? Does anybody seriously maintain, that,
- 20 charged with my share of the public councils, I am obliged not to resist projects which I think mischievous, lest men who suffer should be encouraged to resist? The very tendency of such projects to produce rebellion is one of the chief reasons against them. Shall that reason not be
- 25 given? Is it then a rule, that no man in this nation shall open his mouth in favour of the colonies, shall defend their rights, or complain of their sufferings? Or when war finally breaks out, no man shall express his desires of peace? Has this been the law of our past, or is it to be
- 30 the terms of our future connexion? Even looking no further than ourselves, can it be true loyalty to any gov-

ernment, or true patriotism towards any country, to degrade their solemn councils into servile drawing-rooms, to flatter their pride and passions, rather than to enlighten their reason, and to prevent them from being cautioned against violence lest others should be encouraged to resistance? By such acquiescence great kings and mighty nations have been undone; and if any are at this day in a perilous situation from rejecting truth, and listening to flattery, it would rather become them to reform the errors under which they suffer, than to reproach those who forewarned them of their danger. 5 10

But the rebels looked for assistance from this country. They did so, in the beginning of this controversy, most certainly; and they sought it by earnest supplications to government, which dignity rejected, and by a suspension of commerce, which the wealth of this nation enabled you to despise. When they found that neither prayers nor menaces had any sort of weight, but that a firm resolution was taken to reduce them to unconditional obedience by a military force, they came to the last extremity. Despairing of us, they trusted in themselves. Not strong enough themselves, they sought succour in France. In proportion as all encouragement here lessened, their distance from this country increased. The encouragement is over; the alienation is complete. 15 20 25

In order to produce this favourite unanimity in delusion, and to prevent all possibility of a return to our ancient happy concord, arguments for our continuance in this course are drawn from the wretched situation itself into which we have been betrayed. It is said, that being at war with the colonies, whatever our sentiments might 30

have been before, all ties between us are now dissolved; and all the policy we have left is to strengthen the hands of government to reduce them. On the principle of this argument, the more mischiefs we suffer from any administration, the more our trust in it is to be confirmed. Let them but once get us into a war, and then their power is safe, and an act of oblivion is passed for all their misconduct.

But is it really true, that government is always to be strengthened with the instruments of war, but never furnished with the means of peace? In former times, ministers, I allow, have been sometimes driven by the popular voice to assert by arms the national honour against foreign powers. But the wisdom of the nation has been far more clear, when those ministers have been compelled to consult its interests by treaty. We all know that the sense of the nation obliged the court of King Charles the Second to abandon the *Dutch war*; a war next to the present the most impolitic which we ever carried on. The good people of England considered Holland as a sort of dependency on this kingdom; they dreaded to drive it to the protection, or subject it to the power of France, by their own inconsiderate hostility. They paid but little respect to the court jargon of that day; nor were they inflamed by the pretended rivalry of the Dutch in trade; by their massacre at Amboyna, acted on the stage to provoke the public vengeance; nor by declamations against the ingratitude of the United Provinces for the benefits England had conferred upon them in their infant state. They were not moved from their evident interest by all these arts; nor was it enough to tell them, they were at war; that they

must go through with it; and that the cause of the dispute was lost in the consequences. The people of England were then, as they are now, called upon to make government strong. They thought it a great deal better to make it wise and honest.

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When I was amongst my constituents at the last summer assizes, I remember that men of all descriptions did then express a very strong desire for peace, and no slight hopes of attaining it from the commission sent out by my Lord Howe. And it is not a little remarkable, that, in proportion as every person showed a zeal for the court measures, he was then earnest in circulating an opinion of the extent of the supposed powers of that commission. When I told them that Lord Howe had no powers to treat, or to promise satisfaction on any point whatsoever of the controversy, I was hardly credited; so strong and general was the desire of terminating this war by the method of accommodation. As far as I could discover, this was the temper then prevalent through the kingdom. The king's forces, it must be observed, had at that time been obliged to evacuate Boston. The superiority of the former campaign rested wholly with the colonists. If such powers of treaty were to be wished, whilst success was very doubtful, how came they to be less so, since his Majesty's arms have been crowned with many considerable advantages? Have these successes induced us to alter our mind; as thinking the season of victory not the time for treating with honour or advantage? Whatever changes have happened in the national character, it can scarcely be our wish, that terms of accommodation never should be proposed to our enemy, except when they must be attributed

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solely to our fears. It has happened, let me say unfortunately, that we read of his Majesty's commission for making peace, and his troops evacuating his last town in the thirteen colonies, at the same hour and in the same  
5 gazette. It was still more unfortunate, that no commission went to America to settle the troubles there, until several months after an act had been passed to put the colonies out of the protection of this government, and to divide their trading property, without a possibility of  
10 restitution, as spoil among the seamen of the navy. The most abject submission on the part of the colonies could not redeem them. There was no man on that whole continent, or within three thousand miles of it, qualified by law to follow allegiance with protection, or submission  
15 with pardon. A proceeding of this kind has no example in history. Independency, and independency with an enemy (which putting ourselves out of the question would be called natural and much provoked) was the inevitable consequence. How this came to pass, the nation may be  
20 one day in an humour to inquire.

All the attempts made this session to give fuller powers of peace to the commanders in America, were stifled by the fatal confidence of victory, and the wild hopes of unconditional submission. There was a moment favourable  
25 to the king's arms, when if any powers of concession had existed, on the other side of the Atlantic, even after all our errors, peace in all probability might have been restored. But calamity is unhappily the usual season of reflection; and the pride of men will not often suffer  
30 reason to have any scope until it can be no longer of service.

I have always wished, that as the dispute had its apparent origin from things done in parliament, and as the acts passed there had provoked the war, that the foundations of peace should be laid in parliament also. I have been astonished to find, that those, whose zeal for the 5 dignity of our body was so hot as to light up the flames of civil war, should even publicly declare, that these delicate points ought to be wholly left to the crown. Poorly as I may be thought affected to the authority of parliament, I shall never admit that our constitutional 10 rights can ever become a matter of ministerial negotiation.

I am charged with being an American. If warm affection towards those over whom I claim any share of authority be a crime, I am guilty of this charge. But I 15 do assure you (and they who know me publicly and privately will bear witness to me) that if ever one man lived more zealous than another for the supremacy of parliament, and the rights of this imperial crown, it was myself. Many others indeed might be more knowing 20 in the extent of the foundation of these rights. I do not pretend to be an antiquary, a lawyer, or qualified for the chair of professor in metaphysics. I never ventured to put your solid interests upon speculative grounds. My having constantly declined to do so has been attributed 25 to my incapacity for such disquisitions; and I am inclined to believe it is partly the cause. I never shall be ashamed to confess, that where I am ignorant I am diffident. I am indeed not very solicitous to clear myself of this imputed incapacity; because men, even less con- 30 versant than I am, in this kind of subtleties, and placed

in stations, to which I ought not to aspire, have, by the mere force of civil discretion, often conducted the affairs of great nations with distinguished felicity and glory.

When I first came into a public trust, I found your  
5 parliament in possession of an unlimited legislative power over the colonies. I could not open the statute book without seeing the actual exercise of it, more or less, in all cases whatsoever. This possession passed with me for a title. It does so in all human affairs. No man examines  
10 into the defects of his title to his paternal estate, or to his established government. Indeed common sense taught me, that a legislative authority, not actually limited by the express terms of its foundation, or by its own subsequent acts, cannot have its powers parcelled out  
15 by argumentative distinctions, so as to enable us to say, that here they can, and there they cannot bind. Nobody was so obliging as to produce to me any record of such distinctions, by compact or otherwise, either at the successive formation of the several colonies, or during the  
20 existence of any of them. If any gentlemen were able to see how one power could be given up, (merely on abstract reasoning) without giving up the rest, I can only say, that they saw further than I could; nor did I ever presume to condemn any one for being clear-sighted,  
25 when I was blind. I praise their penetration and learning; and hope that their practice has been correspondent to their theory.

I had indeed very earnest wishes to keep the whole body of this authority perfect and entire as I found it: and to  
30 keep it so, not for our advantage solely; but principally for the sake of those, on whose account all just authority



exists; I mean the people to be governed. For I thought I saw, that many cases might well happen, in which the exercise of every power comprehended in the broadest idea of legislature, might become, in its time and circumstances, not a little expedient for the peace and union 5 of the colonies amongst themselves, as well as for their perfect harmony with Great Britain. Thinking so, (perhaps erroneously) but being honestly of that opinion, I was at the same time very sure, that the authority, of which I was so jealous, could not under the actual cir- 10 cumstances of our plantations be at all preserved in any of its members, but by the greatest reserve in its application; particularly in those delicate points, in which the feelings of mankind are the most irritable. They who thought otherwise, have found a few more difficulties in 15 their work than (I hope) they were thoroughly aware of, when they undertook the present business. I must beg leave to observe, that it is not only the invidious branch of taxation that will be resisted, but that no other given part of legislative rights can be exercised, without regard 20 to the general opinion of those who are to be governed. That general opinion is the vehicle, and organ of legislative omnipotence. Without this, it may be a theory to entertain the mind, but it is nothing in the direction of affairs. The completeness of the legislative authority of 25 parliament *over this kingdom* is not questioned; and yet many things indubitably included in the abstract idea of that power, and which carry no absolute injustice in themselves, yet being contrary to the opinions and feelings of the people, can as little be exercised, as if parlia- 30 ment in that case had been possessed of no right at all.

I see no abstract reason, which can be given, why the same power, which made and repealed the High Commission Court and the Star Chamber, might not revive them again; and these courts, warned by their former fate, 5 might possibly exercise their powers with some degree of justice. But the madness would be as unquestionable, as the competence of that parliament, which should attempt such things. If anything can be supposed out of the power of human legislature, it is religion; I admit, 10 however, that the established religion of this country has been three or four times altered by act of parliament; and therefore that a statute binds even in that case. But we may very safely affirm, that, notwithstanding this apparent omnipotence, it would be now found as impossible 15 for king and parliament to alter the established religion of this country, as it was to King James alone, when he attempted to make such an alteration without a parliament. In effect, to follow, not to force the public inclination; to give a direction, a form, a technical dress, and 20 a specific sanction, to the general sense of the community, is the true end of legislature.

It is so with regard to the exercise of all the powers, which our constitution knows in any of its parts, and indeed to the substantial existence of any of the parts 25 themselves. The king's negative to bills is one of the most indisputed of the royal prerogatives; and it extends to all cases whatsoever. I am far from certain, that if several laws, which I know, had fallen under the stroke of that sceptre, that the public would have had a very 30 heavy loss. But it is not the *propriety* of the exercise which is in question. The exercise itself is wisely for-

borne. Its repose may be the preservation of its existence; and its existence may be the means of saving the constitution itself, on an occasion worthy of bringing it forth. As the disputants, whose accurate and logical reasonings have brought us into our present condition, 5 think it absurd, that powers or members of any constitution should exist, rarely or never to be exercised, I hope I shall be excused in mentioning another instance, that is material. We know, that the Convocation of the Clergy had formerly been called, and sat with nearly as much 10 regularity to business as parliament itself. It is now called for form only. It sits for the purpose of making some polite ecclesiastical compliments to the king; and, when that grace is said, retires and is heard of no more. It is however *a part of the constitution*, and may be 15 called out into act and energy, whenever there is occasion; and whenever those, who conjure up that spirit, will choose to abide the consequences. It is wise to permit its legal existence; it is much wiser to continue it a legal existence only. So truly has prudence (constituted as the 20 god of this lower world) the entire dominion over every exercise of power committed into its hands; and yet I have lived to see prudence and conformity to circumstances wholly set at nought in our late controversies, and treated as if they were the most contemptible and 25 irrational of all things. I have heard it a hundred times very gravely alleged, that in order to keep power in wind, it was necessary, by preference, to exert it in those very points in which it was most likely to be resisted, and the least likely to be productive of any advantage. 30

These were the considerations, gentlemen, which led me

early to think, that, in the comprehensive dominion which the divine Providence had put into our hands, instead of troubling our understandings with speculations concerning the unity of empire, and the identity or distinction of legislative powers, and inflaming our passions with the heat and pride of controversy, it was our duty, in all soberness, to conform our government to the character and circumstances of the several people who composed this mighty and strangely diversified mass. I never was wild enough to conceive, that one method would serve for the whole; that the natives of Hindostan and those of Virginia could be ordered in the same manner; or that the Cutchery court and the grand jury of Salem could be regulated on a similar plan. I was persuaded that government was a practical thing, made for the happiness of mankind, and not to furnish out a spectacle of uniformity, to gratify the schemes of visionary politicians. Our business was to rule, not to wrangle; and it would have been a poor compensation that we had triumphed in a dispute, whilst we lost an empire.

If there be one fact in the world perfectly clear, it is this: "That the disposition of the people of America is wholly averse to any other than a free government;" and this is indication enough to any honest statesman, how he ought to adapt whatever power he finds in his hands to their case. If any ask me what a free government is, I answer, that, for any practical purpose, it is what the people think so; and that they, and not I, are the natural, lawful, and competent judges of this matter. If they practically allow me a greater degree of authority over them than is consistent with any correct ideas of perfect

freedom, I ought to thank them for so great a trust, and not to endeavour to prove from thence, that they have reasoned amiss, and that having gone so far, by analogy, they must hereafter have no enjoyment but by my pleasure.

If we had seen this done by any others, we should have concluded them far gone in madness. It is melancholy as well as ridiculous, to observe the kind of reasoning with which the public has been amused, in order to divert our minds from the common sense of our American policy. There are people, who have split and anatomised the doctrine of free government, as if were an abstract question concerning metaphysical liberty and necessity; and not a matter of moral prudence and natural feeling. They have disputed, whether liberty be a positive or a negative idea; whether it does not consist in being governed by laws; without considering what are the laws, or who are the makers; whether man has any rights by nature; and whether all the property he enjoys be not the alms of his government, and his life itself their favour and indulgence. Others corrupting religion, as these have perverted philosophy, contend, that Christians are redeemed into captivity; and the blood of the Saviour of mankind has been shed to make them the slaves of a few proud and insolent sinners. These shocking extremes proving to extremes of another kind, speculations are let loose as destructive to all authority, as the former are to all freedom; and every government is called tyranny and usurpation which is not formed on their fancies. In this manner the stirrers-up of this contention, not satisfied with distracting our dependencies and filling them with

blood and slaughter, are corrupting our understandings: they are endeavouring to tear up, along with practical liberty, all the foundations of human society, all equity and justice, religion and order.

- 5 Civil freedom, gentlemen, is not, as many have endeavoured to persuade you, a thing that lies hid in the depth of abstruse science. It is a blessing and a benefit, not an abstract speculation; and all the just reasoning that can be upon it is of so coarse a texture, as perfectly to suit the  
10 ordinary capacities of those who are to enjoy, and of those who are to defend it. Far from any resemblance to those propositions in geometry and metaphysics, which admit no medium, but must be true or false in all their latitude; social and civil freedom, like all other things in common  
15 life, are variously mixed and modified, enjoyed in very different degrees, and shaped into an infinite diversity of forms, according to the temper and circumstances of every community. The *extreme* of liberty (which is its abstract perfection, but its real fault) obtains nowhere, nor ought  
20 to obtain anywhere. Because extremes, as we all know, in every point which relates either to our duties or satisfactions in life, are destructive both to virtue and enjoyment. Liberty too must be limited in order to be possessed. The degree of restraint it is impossible in any  
25 case to settle precisely. But it ought to be the constant aim of every wise public council, to find out by cautious experiments, and rational, cool endeavours, with how little, not how much of this restraint, the community can subsist. For liberty is a good to be improved, and not an  
30 evil to be lessened. It is not only a private blessing of the first order, but the vital spring and energy of the state

itself, which has just so much life and vigour as there is liberty in it. // But whether liberty be advantageous or not, (for I know it is a fashion to decry the very principle) none will dispute that peace is a blessing; and peace must in the course of human affairs be frequently 5 bought by some indulgence and toleration at least to liberty. For as the Sabbath (though of divine institution) was made for man, not man for the Sabbath, government, which can claim no higher origin or authority, in its exercise at least, ought to conform to the exigencies 10 of the time, and the temper and character of the people, with whom it is concerned; and not always to attempt violently to bend the people to their theories of subjection. The bulk of mankind on their part are not excessively curious concerning any theories, whilst they are 15 really happy; and one sure symptom of an ill-conducted state is the propensity of the people to resort to them.

But when subjects, by a long course of such ill conduct, are once thoroughly inflamed, and the state itself violently distempered, the people must have some satisfaction 20 to their feelings more solid than a sophistical speculation on law and government. Such was our situation; and such a satisfaction was necessary to prevent recourse to arms; it was necessary towards laying them down; it will be necessary to prevent the taking them up again 25 and again. Of what nature this satisfaction ought to be, I wish it had been the disposition of parliament seriously to consider. It was certainly a deliberation that called for the exertion of all their wisdom.

I am, and ever have been, deeply sensible of the diffi- 30 culty of reconciling the strong presiding power, that is so

useful towards the conservation of a vast, disconnected, infinitely diversified empire, with that liberty and safety of the provinces, which they must enjoy, (in opinion and practice at least) or they will not be provinces at all. I know, and have long felt, the difficulty of reconciling the unwieldy haughtiness of a great ruling nation, habituated to command, pampered by enormous wealth, and confident from a long course of prosperity and victory, to the high spirit of free dependencies, animated with the first glow and activity of juvenile heat, and assuming to themselves, as their birthright, some part of that very pride which oppresses them. They who perceive no difficulty in reconciling these tempers, (which however to make peace must some way or other be reconciled) are much above my capacity, or much below the magnitude of the business. Of one thing I am perfectly clear, that it is not by deciding the suit, but by compromising the difference, that peace can be restored or kept. They who would put an end to such quarrels, by declaring roundly in favour of the whole demands of either party, have mistaken, in my humble opinion, the office of a mediator.

The war is now of full two years' standing; the controversy of many more. In different periods of the dispute, different methods of reconciliation were to be pursued. I mean to trouble you with a short state of things at the most important of these periods, in order to give you a more distinct idea of our policy with regard to this most delicate of all objects. The colonies were from the beginning subject to the legislature of Great Britain, on principles which they never examined; and we permitted to them many local privileges, without asking how they



agreed with that legislative authority. Modes of administration were formed in an insensible and very unsystematic manner. But they gradually adapted themselves to the varying condition of things.—What was first a single kingdom, stretched into an empire; and an imperial superintendency, of some kind or other, became necessary. Parliament from a mere representative of the people, and a guardian of popular privileges for its own immediate constituents, grew into a mighty sovereign. Instead of being a control on the crown on its own behalf, it communicated a sort of strength to the royal authority; which was wanted for the conservation of a new object, but which could not be safely trusted to the crown alone. On the other hand, the colonies, advancing by equal steps, and governed by the same necessity, had formed within themselves, either by royal instruction or royal charter, assemblies so exceedingly resembling a parliament, in all their forms, functions, and powers, that it was impossible they should not imbibe some opinion of a similar authority.

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At the first designation of these assemblies, they were probably not intended for anything more, (nor perhaps did they think themselves much higher) than the municipal corporations within this island, to which some at present love to compare them. But nothing in progression can rest on its original plan. We may as well think of rocking a grown man in the cradle of an infant. Therefore as the colonies prospered and increased to a numerous and mighty people, spreading over a very great tract of the globe; it was natural that they should attribute to assemblies, so respectable in their formal

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constitution, some part of the dignity of the great nations which they represented. No longer tied to by-laws, these assemblies made acts of all sorts and in all cases whatsoever. They levied money, not for parochial purposes, 5 but upon regular grants to the crown, following all the rules and principles of a parliament to which they approached every day more and more nearly. Those who think themselves wiser than Providence, and stronger than the course of nature, may complain of all this variation, on the one side or the other, as their several humours and prejudices may lead them. But things could not be otherwise; and English colonies must be had on these terms, or not had at all. In the mean time neither party felt any inconvenience from this double legislature, to 15 which they had been formed by imperceptible habits, and old custom, the great support of all the governments in the world. Though these two legislatures were sometimes found perhaps performing the very same functions, they did not very grossly or systematically clash. In all 20 likelihood this arose from mere neglect; possibly from the natural operation of things, which, left to themselves, generally fall into their proper order. But whatever was the cause, it is certain that a regular revenue, by the authority of parliament, for the support of civil and 25 military establishments, seems not to have been thought of until the colonies were too proud to submit, too strong to be forced, too enlightened not to see all the consequences which must arise from such a system.

If ever this scheme of taxation was to be pushed against 30 the inclinations of the people, it was evident that discussions must arise, which would let loose all the elements

that composed this double constitution; would show how much each of their members had departed from its original principles; and would discover contradictions in each legislature, as well to its own first principles, as to its relation to the other, very difficult if not absolutely im- 5 possible to be reconciled.

Therefore at the first fatal opening of this contest, the wisest course seemed to be to put an end as soon as possible to the immediate causes of the dispute; and to quiet a discussion, not easily settled upon clear principles, 10 and arising from claims, which pride would permit neither party to abandon, by resorting as nearly as possible to the old, successful course. A mere repeal of the obnoxious tax, with a declaration of the legislative authority of this kingdom, was then fully sufficient to 15 procure peace to *both sides*. Man is a creature of habit, and the first breach being of very short continuance, the colonies fell back exactly into their ancient state. The congress has used an expression with regard to this pacification, which appears to me truly significant. After 20 the repeal of the Stamp Act, "the colonies fell," says this assembly, "into their ancient state of *unsuspecting confidence in the mother country*." This unsuspecting confidence is the true center of gravity amongst mankind, about which all the parts are at rest. It is this *unsus-* 25 *pecting confidence* that removes all difficulties, and reconciles all the contradictions which occur in the complexity of all ancient, puzzled, political establishments. Happy are the rulers which have the secret of preserving it!

The whole empire has reason to remember, with 30 eternal gratitude, the wisdom and temper of that man

and his excellent associates, who, to recover this confidence, formed a plan of pacification in 1766. That plan, being built upon the nature of man, and the circumstances and habits of the two countries, and not on any  
5 visionary speculations, perfectly answered its end, as long as it was thought proper to adhere to it. Without giving a rude shock to the dignity (well or ill understood) of this parliament, they gave perfect content to our dependencies. Had it not been for the mediatorial  
10 spirit and talents of that great man, between such clashing pretensions and passions, we should then have rushed headlong (I know what I say) into the calamities of that civil war, in which, by departing from his system, we are at length involved; and we should have been precipi-  
15 tated into that war, at a time when circumstances both at home and abroad were far, very far, more unfavourable unto us than they were at the breaking out of the present troubles.

I had the happiness of giving my first votes in parliament for that pacification. I was one of those almost  
20 unanimous members, who, in the necessary concessions of parliament, would as much as possible have preserved its authority, and respected its honour. I could not at once tear from my heart prejudices which were dear to  
25 me, and which bore a resemblance to virtue. I had then, and I have still my partialities. What parliament gave up, I wished to be given as of grace, and favour, and affection, and not as a restitution of stolen goods. High dignity relented as it was soothed; and a benignity from  
30 old acknowledged greatness had its full effect on our dependencies. Our unlimited declaration of legislative

authority produced not a single murmur. If this undefined power has become odious since that time, and full of horror to the colonies, it is because the *unsuspicious confidence* is lost, and the parental affection, in the bosom of whose boundless authority they reposed their privileges, is become estranged and hostile. 5

It will be asked, if such was then my opinion of the mode of pacification, how I came to be the very person who moved, not only for a repeal of all the late coercive statutes, but for mutilating, by a positive law, the entire- 10  
ness of the legislative power of parliament, and cutting off from it the whole right of taxation? I answer, because a different state of things requires a different conduct. When the dispute had gone to these last extremities (which no man laboured more to prevent than I did,) 15  
the concessions which had satisfied in the beginning, could satisfy no longer; because the violation of tacit faith required explicit security. The same cause which has introduced all formal compacts and covenants among men made it necessary. I mean habits of soreness, jeal- 20  
ousy, and distrust. I parted with it, as with a limb; but as a limb to save the body; and I would have parted with more, if more had been necessary; anything rather than a fruitless, hopeless, unnatural civil war. This mode of yielding would, it is said, give way to independency, with- 25  
out a war. I am persuaded from the nature of things, and from every information, that it would have had a directly contrary effect. But if it had this effect, I confess that I should prefer independency without war, to independency with it; and I have so much trust in the inclinations 30  
and prejudices of mankind, and so little in anything else,

that I should expect ten times more benefit to this kingdom from the affection of America, though under a separate establishment, than from her perfect submission to the crown and parliament, accompanied with her terror, 5 disgust, and abhorrence. Bodies tied together by so unnatural a bond of union, as mutual hatred, are only connected to their ruin.

One hundred and ten respectable members of parliament voted for that concession. Many not present, when 10 the motion was made, were of the sentiments of those who voted. I knew it would then have made peace. I am not without hopes that it would do so at present if it were adopted. No benefit, no revenue could be lost by it; something might possibly be gained by its consequences. For be fully assured, that, of all the phantoms 15 that ever deluded the fond hopes of a credulous world, a parliamentary revenue in the colonies is the most perfectly chimerical. Your breaking them to any subjection, far from relieving your burthens, (the pretext for this 20 war,) will never pay that military force which will be kept up to the destruction of their liberties and yours. I risk nothing in this prophecy.

Gentlemen, you have my opinions on the present state of public affairs. Mean as they may be in themselves, 25 your partiality has made them of some importance. Without troubling myself to inquire whether I am under a formal obligation to it, I have a pleasure in accounting for my conduct to my constituents. I feel warmly on this subject, and I express myself as I feel. If I presume 30 to blame any public proceeding, I cannot be supposed to

be personal. Would to God I could be suspected of it. My fault might be greater, but the public calamity would be less extensive. If my conduct has not been able to make any impression on the warm part of that ancient and powerful party, with whose support I was not honoured at my election; on my side, my respect, regard, and duty to them is not at all lessened. I owe the gentlemen who compose it my most humble service in everything. I hope that whenever any of them were pleased to command me, that they found me perfectly equal in my obedience. But flattery and friendship are very different things; and to mislead is not to serve them. I cannot purchase the favour of any man by concealing from him what I think his ruin. By the favour of my fellow-citizens, I am the representative of an honest, well-ordered, virtuous city; of a people, who preserve more of the original English simplicity, and purity of manners, than perhaps any other. You possess among you several men and magistrates of large and cultivated understandings; fit for any employment in any sphere. I do, to the best of my power, act so as to make myself worthy of so honourable a choice. If I were ready, on any call of my own vanity or interest, or to answer any election purpose, to forsake principles, (whatever they are) which I had formed at a mature age, on full reflection, and which had been confirmed by long experience, I should forfeit the only thing which makes you pardon so many errors and imperfections in me. Not that I think it fit for any one to rely too much on his own understanding; or to be filled with a presumption, not

becoming a Christian man, in his own personal stability and rectitude.

I hope I am far from that vain confidence, which almost always fails in trial. I know my weakness in all  
5 respects, as much at least as any enemy I have; and I attempt to take security against it. The only method which has ever been found effectual to preserve any man against the corruption of nature and example, is an habit of life and communication of counsels with the  
10 most virtuous and public-spirited men of the age you live in. Such a society cannot be kept without advantage, or deserted without shame. For this rule of conduct I may be called in reproach a *party man*; but I am little affected with such aspersions. In the way which they call party,  
15 I worship the constitution of your fathers; and I shall never blush for my political company. All reverence to honour, all idea of what it is, will be lost out of the world, before it can be imputed as a fault to any man, that he has been closely connected with those incompar-  
20 able persons, living and dead, with whom for eleven years I have constantly thought and acted. If I have wandered out of the paths of rectitude into those of interested faction, it was in company with the Saviles, the Dowdeswells, the Wentworths, the Bentincks; with the Lenoxes,  
25 the Manchesters, the Keppels, the Saunderses; with the temperate, permanent, hereditary virtue of the whole house of Cavendish; names, among which, some have extended your fame and empire in arms, and all have fought the battle of your liberties in fields not less  
30 glorious.—These, and many more like these, grafting



public principles on private honour, have redeemed the present age, and would have adorned the most splendid period in your history. Where could any man, conscious of his own inability to act alone, and willing to act as he ought to do, have arranged himself better? If any one thinks this kind of society to be taken up as the best method of gratifying low, personal pride, or ambitious interest, he is mistaken; and he knows nothing of the world. 5

Preferring this connexion, I do not mean to detract in the slightest degree from others. There are some of those, whom I admire at something of a greater distance, with whom I have had the happiness also perfectly to agree, in almost all the particulars, in which I have differed with some successive administrations; and they are such, as it never can be reputable to any government to reckon among its enemies. I hope there are none of you corrupted with the doctrine taught by wicked men for the worst purposes, and received by the malignant credulity of envy and ignorance, which is, that the men who act upon the public stage are all alike; all equally corrupt; all influenced by no other views than the sordid lure of salary and pension. The thing I know by experience to be false. Never expecting to find perfection in men, and not looking for divine attributes in created beings, in my commerce with my contemporaries, I have found much human virtue. I have seen not a little public spirit; a real subordination of interest to duty; and a decent and regulated sensibility to honest fame and reputation. The age unquestionably produces (whether in a 30

greater or less number than former times, I know not) daring profligates, and insidious hypocrites. What then? Am I not to avail myself of whatever good is to be found in the world, because of the mixture of evil that will  
5 always be in it? The smallness of the quantity in currency only heightens the value. They, who raise suspicions on the good on account of the behaviour of ill men, are of the party of the latter. The common cant is no justification for taking this party. I have been deceived,  
10 say they, by *Titius* and *Mævius*; I have been the dupe of this pretender or of that mountebank; and I can trust appearances no longer. But my credulity and want of discernment cannot, as I conceive, amount to a fair presumption against any man's integrity. A conscientious  
15 person would rather doubt his own judgment, than condemn his species. He would say, I have observed without attention, or judged upon erroneous maxims; I trusted to profession, when I ought to have attended to conduct. Such a man will grow wise, not malignant, by his ac-  
20 quaintance with the world. But he that accuses all mankind of corruption, ought to remember that he is sure to convict only one. In truth I should much rather admit those, whom at any time I have disrelished the most, to be patterns of perfection, than seek a consolation to my own unworthiness, in a general communion of  
25 depravity with all about me.

That this ill-natured doctrine should be preached by the missionaries of a court I do not wonder. It answers their purpose. But that it should be heard among those  
30 who pretend to be strong assertors of liberty, is not only

surprising, but hardly natural. This moral levelling is a *servile principle*. It leads to practical passive obedience far better than all the doctrines which the pliant accommodation of theology to power has ever produced. It cuts up by the roots, not only all idea of forcible resistance, but even of civil opposition. It disposes men to an abject submission, not by opinion, which may be shaken by argument or altered by passion, but by the strong ties of public and private interest. For if all men who act in a public situation are equally selfish, corrupt, and venal, what reason can be given for desiring any sort of change, which, besides the evils which must attend all changes, can be productive of no possible advantage? The active men in the state are true samples of the mass. If they are universally depraved, the commonwealth itself is not sound. We may amuse ourselves with talking as much as we please of the virtue of middle or humble life; that is, we may place our confidence in the virtue of those who have never been tried. But if the persons who are continually emerging out of that sphere, be no better than those whom birth has placed above it, what hopes are there in the remainder of the body, which is to furnish the perpetual succession of the state? All who have ever written on government are unanimous, that among a people generally corrupt, liberty cannot long exist. And indeed how is it possible? when those who are to make the laws, to guard, to enforce, or to obey them, are, by a tacit confederacy of manners, indisposed to the spirit of all generous and noble institutions.

I am aware that the age is not what we all wish. But I am sure, that the only means of checking its precipitate degeneracy, is heartily to concur with whatever is the best in our time; and to have some more correct standard  
5 of judging what that best is, than the transient and uncertain favour of a court. If once we are able to find, and can prevail on ourselves to strengthen an union of such men, whatever accidentally becomes indisposed to ill-exercised power, even by the ordinary operation of  
10 human passions, must join with that society, and cannot long be joined, without in some degree assimilating to it. Virtue will catch as well as vice by contact; and the public stock of honest, manly principle will daily accumulate. We are not too nicely to scrutinise motives as  
15 long as action is irreproachable. It is enough, (and for a worthy man perhaps too much) to deal out its infamy to convicted guilt and declared apostasy.

This, gentlemen, has been from the beginning the rule of my conduct; and I mean to continue it, as long as such  
20 a body as I have described can by any possibility be kept together; for I should think it the most dreadful of all offences, not only towards the present generation but to all the future, if I were to do anything which could make the minutest breach in this great conservatory of free principles. Those who perhaps have the same  
25 intentions, but are separated by some little political animosities, will I hope discern at last, how little conducive it is to any rational purpose, to lower its reputation. For my part, gentlemen, from much experience, from no  
30 little thinking, and from comparing a great variety of

things, I am thoroughly persuaded, that the last hopes of preserving the spirit of the English constitution, or of reuniting the dissipated members of the English race upon a common plan of tranquillity and liberty, does entirely depend on their firm and lasting union; and 5 above all on their keeping themselves from that despair, which is so very apt to fall on those, whom a violence of character and a mixture of ambitious views do not support through a long, painful, and unsuccessful struggle. 10

There never, gentlemen, was a period in which the steadfastness of some men has been put to so sore a trial. It is not very difficult for well-formed minds to abandon their interest; but the separation of fame and virtue is a harsh divorce. Liberty is in danger of being made 15 unpopular to Englishmen. Contending for an imaginary power, we begin to acquire the spirit of domination, and to lose the relish of honest equality. The principles of our forefathers become suspected to us, because we see them animating the present opposition of our children. 20 The faults which grow out of the luxuriance of freedom appear much more shocking to us than the base vices which are generated from the rankness of servitude. Accordingly the least resistance to power appears more inexcusable in our eyes than the greatest abuses of 25 authority. All dread of a standing military force is looked upon as a superstitious panic. All shame of calling in foreigners and savages in a civil contest is worn off. We grow indifferent to the consequences inevitable to ourselves from the plan of ruling half the empire by 30

a mercenary sword. We are taught to believe, that a desire of domineering over our countrymen is love to our country; that those who hate civil war abet rebellion, and that the amiable and conciliatory virtues of lenity, 5 moderation, and tenderness to the privileges of those who depend on this kingdom, are a sort of treason to the state.

It is impossible that we should remain long in a situation, which breeds such notions and dispositions, without 10 some great alteration in the national character. Those ingenuous and feeling minds who are so fortified against all other things, and so unarmed to whatever approaches in the shape of disgrace, finding these principles, which they considered as sure means of honour, to be grown 15 into disrepute, will retire disheartened and disgusted. Those of a more robust make, the bold, able, ambitious men, who pay some of their court to power through the people, and substitute the voice of transient opinion in the place of true glory, will give into the general mode; 20 and those superior understandings which ought to correct vulgar prejudice, will confirm and aggravate its errors. Many things have been long operating towards a gradual change in our principles. But this American war has done more in a very few years, than all the other causes 25 could have effected in a century. It is therefore not on its own separate account, but because of its attendant circumstances, that I consider its continuance, or its ending in any way but that of an honourable and liberal accommodation, as the greatest evils which can befall 30 us. For that reason I have troubled you with this long

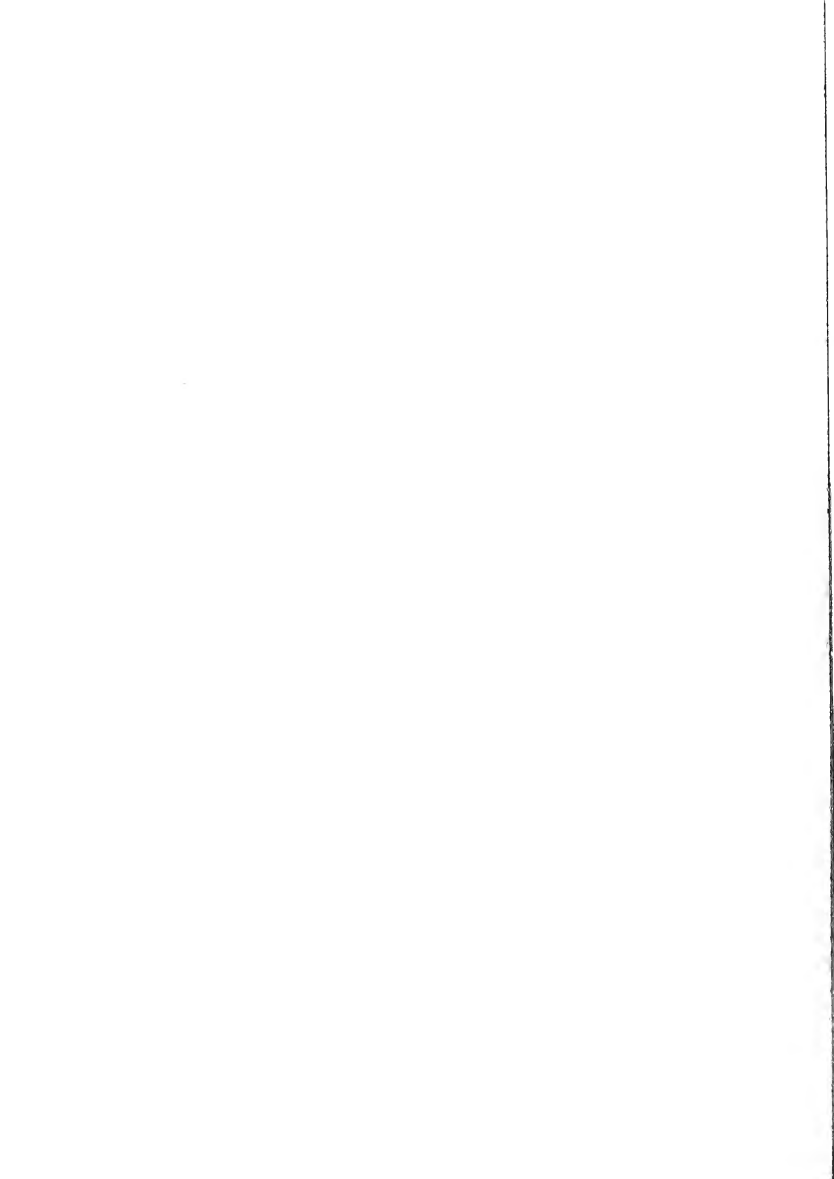
letter. For that reason I entreat you again and again, neither to be persuaded, shamed, or frightened out of the principles that have hitherto led so many of you to abhor the war, its cause, and its consequences. Let us not be amongst the first who renounce the maxims of our fore- 5 fathers.

*I have the honour to be,  
GENTLEMEN,  
Your most obedient,  
And faithful humble servant,*

BEACONSFIELD,  
*April 3, 1777.*

EDMUND BURKE.

*P. S.* You may communicate this letter in any manner you think proper to my constituents.





## NOTES.

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**1. Gentlemen.** The *Letter* was addressed to the sheriffs of Bristol, because as representatives of the King, by whom they were appointed each year, the sheriffs had charge of all the elections in the county. John Farr, a "rope maker," and John Harris, a "hosier," were sheriffs in 1776-7. Harris was again appointed sheriff in 1788, and two years later was elected mayor. Farr was elected mayor in 1784.

**1 7. to nine.** These statutes were: (1) the closing of Boston harbour (14 Geo. III. 19, i. e., the nineteenth act of Parliament in the fourteenth year of the reign of George III. See *Statutes at Large*); (2) the act for bringing to England for trial persons accused of committing murder in the execution of the law, or in suppressing riots and tumults in the colonies (14 Geo. III. 39); (3) the suspension of the charter of Massachusetts (14 Geo. III. 45); (4) the Military Bill for quartering the soldiers in America (14 Geo. III. 54); (5) the Quebec Act which extended the boundaries of that province to the Ohio and Mississippi Rivers (14 Geo. III. 83); (6) the act restraining the colonies from trading with Great Britain and the West Indies, and from the Newfoundland fisheries (15 Geo. III. 10); (7) the Prohibitory Act, to prohibit all trade and intercourse with the colonies during rebellion (16 Geo. III. 5); and the two acts spoken of below.

**1 14. our detestation.** The sheriffs may have agreed with Burke, but the majority of the citizens of Bristol did not, for in less than a year they pledged £21,000 to aid the government in prosecuting the war, while the friends of the colonists could raise only £363.

**2 2. the English on the continent.** The Americans. See also **5** <sup>31</sup>, **7** <sup>28</sup>, **20** <sup>4</sup>, **20** <sup>18</sup>, **21** <sup>8</sup>, **23** <sup>13</sup>, **27** <sup>31</sup>.

**2 4. which undermine our own.** In *An Appeal from the New to the Old Whigs*, Burke said: "He certainly never could and never did wish the colonists to be subdued by arms. He was fully persuaded, that, if such should be the event, they must be held in that subdued state by a great body of standing forces, and perhaps of foreign forces. He was strongly of opinion that such armies, first victorious over Englishmen, in a conflict for English constitutional rights and privileges, and afterwards habituated (though in America) to keep an English people in a state of abject subjection, would prove fatal in the end to the liberties of England itself." *Burke's Works*, IV. 102.

**2 5. the letter of marque.** "A bill (17 Geo. III. 7) for enabling the admiralty to grant commissions, or letters of marque and reprisal, as they are usually called, to the owners or captains of private merchant ships, authorising them to take and make prize of all vessels with their effects, belonging to any of the inhabitants of the thirteen specified revolted American colonies, was passed without debate or opposition in the House of Commons, soon after the recess. It did not cost much more trouble to the Lords." *Annual Register*, 1777, p. 53. To make war without such permission is piracy; with it, privateering. A declaration of the Congress of Paris in 1856 abolished privateering. (Selby.)

**2 10. a partial suspension of the Habeas Corpus.** This act (17 Geo. III. 9) was passed on 17 Feb. 1777 by a vote of 112 to 33, although the sheriffs of London had presented a petition against it on the ground that it was taking away the fundamental rights of the people. The full text of the act is as follows:

An act to empower his Majesty to secure and detain Persons charged with, or suspected of, the Crime of High Treason, committed in any of his Majesty's Colonies or Plantations in *America*, or on the High Seas, or the Crime of Piracy.

Whereas a Rebellion and War have been openly and traiterously levied and carried on in certain of his Majesty's Colonies and Plantations in *America*, and Acts of Treason and Piracy have been committed on the High Seas, and upon the Ships and Goods of his Majesty's Subjects, and many Persons have been seized and

taken, who are expressly charged or strongly suspected of such Treasons and Felonies, and many more such Persons may be hereafter so seized and taken: And whereas such Persons have been, and may be brought into this Kingdom, and into other Parts of his Majesty's Dominions, and it may be inconvenient in many such Cases to proceed forthwith to the Trial of such Criminals, and at the same Time of evil Example to suffer them to go at large; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all and every Person or Persons who have been or shall hereafter be seized or taken in the Act of High Treason committed in any of his Majesty's Colonies or Plantations in *America*, or on the High Seas, or in the Act of Piracy, or who are or shall be charged with or suspected of the Crime of High Treason, committed in any of the said Colonies, or on the High Seas, or of Piracy, and who have been, or shall be committed, in any Part of his Majesty's Dominions, for such Crimes, or any of them, or for Suspicion of such Crimes, or any of them, by any Magistrate having competent Authority in that Behalf, to the Common Gaol, or other Place of Confinement as is hereinafter provided for that Purpose, shall and may be thereupon secured and detained in safe Custody, without Bail or Mainprize, until the first Day of *January*, one thousand seven hundred and seventy-eight; and that no Judge or Justice of Peace shall bail or try any such Person or Persons without Order from his Majesty's most honourable Privy Council, signed by six of the said Privy Council, until the said first day of *January*, one thousand seven hundred and seventy-eight; any Law, Statute, or Usage, to the contrary in anywise notwithstanding.

II. And whereas it may be necessary to provide for such Prisoners within this Realm some other Places of Confinement besides the Common Gaols; be it enacted by the Authority aforesaid, That it shall and may be lawful for his Majesty, by Warrant under his Sign Manual, to appoint one or more Place or Places of Confinement within the Realm, for the Custody of such Prisoners; and all and every Magistrate and Magistrates, having competent Authority in that Behalf, are hereby authorised to commit such Persons as aforesaid to such Place or Places of Confinement, so to be appointed, instead of the Common Gaol.

III. Provided always, and be it enacted, that no Offences shall be construed to be Piracy within the Meaning of this Act, except Acts of Felony committed on the Ships and Goods of his Majesty's Subjects by Persons on the High Seas.

IV. Provided also, and it is hereby declared, That nothing herein contained, is intended, or shall be construed to extend to the Case of any other Prisoner or Prisoners than such as shall have been out of the Realm at the Time or Times of the Offence or Offences wherewith he or they shall be charged, or of which he or they shall be suspected.

V. And be it further enacted by the Authority aforesaid, That this Act shall continue and be in Force until the said first Day of *January*, one thousand seven hundred and seventy-eight and no longer.

By successive enactments, it was continued to January, 1783. The amendment referred to in 2 12 is section IV.

**3 9. the order of crimes.** A rebel, who attempts to

overthrow by force the government to which he owes allegiance, may deserve our respect, but a pirate or sea-robber, who sails the sea for the robbery and plunder of merchant-vessels is an enemy of the whole human race, an object of universal detestation.

**3 16. corruption of blood.** A man sentenced to death or outlawed for treason or felony was said to have become "tainted" or "corrupted," so that he and his descendants lost all rights of rank and title; he could no longer retain possession of land which he had held, nor leave it to heirs, nor could his descendants inherit from him.

**3 24. Lord Coke.** Sir Edward Coke, (1552-1634), was Speaker of the House of Commons in 1592, the successful rival of Sir Francis Bacon for Attorney-General in 1593, Chief Justice of the Common Pleas in 1606, and of the King's Bench in 1613. Coke prosecuted the Earl of Essex for treason while Lord-Lieutenant of Ireland, and the Earl of Southampton, Shakespeare's patron, for aiding Essex. He also prosecuted Sir Walter Raleigh for conspiracy in 1603, and the Gunpowder Plotters in 1605. His chief works are his *Reports*, and his edition of *Littleton's Institutes*. "The key to his whole life is his veneration for the law, for its technicalities as well as for its substance, and the belief that on its rigorous maintenance and the following of precedents depended the liberties of England. Possessed with this one idea he exercised a great and beneficial restraint on two of the most dangerous and unwise of English Kings."

**3 30. Lord Balmerino,** (1688-1746), a Scotch Jacobite, had fought in the Rebellion of 1715 for the "Old Pretender," but was pardoned. He was especially active in the Rebellion of 1745 for the "Young Pretender" and for this was tried and beheaded. See *Gentleman's Magazine*, XVI. 391.

**4 10. new-created offence.** By the Prohibitory Bill, all ships and goods of the colonists, taken by the British ships of war, were forfeited to the captors, "for the encouragement of the officers and seamen of his Majesty's ships of war."

**4 28. their construction of that act.** Early in January, 1769, Parliament, by a vote of 169 to 65, sent an address to the King, urging him to put down the disturbances

in Massachusetts caused by the Townshend Act, and to bring the offenders to England for trial by authority of the act of Henry VIII. (35 Hen. VIII. 2). which had been passed in 1543 when England had no colonies.

**6 7. Tyburn.** The place of public execution of criminals convicted in London. Here, in 1724, Jack Sheppard, the highwayman, was executed in the presence of 200,000 people. After November, 1783, the executions were transferred to Newgate.

**7 28. foreign troops.** Unable to obtain a sufficient number of recruits from her own territory, Great Britain hired about 18,000 Germans, chiefly from the Landgrave of Hesse. In addition to the salaries, England paid \$35 for each man killed, \$12 for each man wounded, and a large bounty to the German rulers.

**7 30. an exchange of prisoners.** As the result of an interview on 22 July 1776 between General Washington and Paterson, the British adjutant-general under General Howe, Congress agreed to exchange prisoners of war: officer for officer of equal rank, soldier for soldier, sailor for sailor, and citizen for citizen.

**8 3. administration.** The ministry or the "government."

**9 2. the late rebellions.** The Jacobite Rebellions for the "Old Pretender" in 1715 and for the "Young Pretender" in 1745. See *S. R. Gardiner's Student History of England*, pp. 705, 739.

**9 24. Oyer and Terminer.** A commission formerly directed to the King's judges, sergeants, and other persons of note, empowering them *to hear and determine* indictments on specified offences, such as treasons, felonies, etc., special commissions being granted on occasions of extraordinary disturbances such as insurrections.

**10 12. the common law.** The common law, or unwritten law of England is that law which has come down by general custom from time immemorial, as distinguished from that law which is the result of statutes or acts passed by a legislative body. For instance, at common law, a widow has dower, *i. e.* the right to one-third of her husband's personal property and a life-interest in one-third of his real estate.

**11 10. Call of the nation.** This phrase is probably formed by analogy from the "Call of the House," which is an imperative summons sent to every member of Parliament to attend when the sense of the whole House is required. At the muster, the names of the members are *called over*, and defaulters reported.

**12 2. the first partial suspension.** The first suspension of the Habeas Corpus Act was in 1689, when many persons were arrested for conspiring against King William; but they were detained only for a few weeks until the court could meet to try them. Other conspiracies against the sovereign led to its suspension in 1696, 1715, 1722, and 1727. In 1744 it was suspended for two months because of fear of a French invasion, and in 1745 it was suspended during the Rebellion of the "Young Pretender." Jeremy Bentham, in 1809, said: "As for the *Habeas Corpus Act*, better the statute book were rid of it. Standing or lying as it does, up one day, down another,—it serves but to swell the list of sham-securities, with which to keep up the delusion, the pages of our law books are defiled. When no man has need of it, then it is that it stands: comes a time when it might be of use, and then it is suspended." *Works*, III. 435. Dr. Johnson said: "The Habeas Corpus is the single advantage which our government has over that of other countries." *Boswell's Johnson*, II. 73.

**12 8. even negro slaves.** In 1772, Lord Mansfield issued a writ of *Habeas Corpus* to release James Sommersett, a negro slave, who had accompanied his master from Virginia to London, where he had attempted to flee from his master and had been captured, and confined on a vessel bound for Jamaica. After an important trial, he was declared free. See *Howells' State Trials*, vol. 20, p. 1, No. 548.

**12 20. three unoffending provinces.** New York, New Jersey and Pennsylvania were less desirous than the other colonies of engaging in war with England.

**13 5. I do not speak of my opposition.** Burke was always modest. See 35 27, 36 24, 37 8, 44 21, 51 3, 52 3, 53 3, 54 12, 58 30.

**13 25. my usual strict attendance.** See INTRODUCTION, p. XXIX. There is no record of Burke's attending the ses-

sions of the House from 6 Nov. 1776 until 16 April 1777. Burke wrote to the Marquis of Rockingham:

By the conversation of some friends, it seemed as if they were willing to fall in with this design, because it promised to emancipate them from the servitude of irksome business, and to afford them an opportunity of retiring to ease and tranquillity. If that be their object in the secession and in the addresses proposed, there surely never were means worse chosen to gain their end; and if this be any part of their project, it were a thousand times better it were never undertaken. . . . If your lordship's friends do not go to this business with their whole hearts, if they do not feel themselves uneasy without it, if they do not undertake it with a certain degree of zeal, and even with warmth and indignation, it had better be removed wholly out of our thoughts. A measure of less strength, and more in the beaten circle of affairs, if supported with spirit and industry, would be on all accounts infinitely more eligible. *Works*, VI. 155.

This secession was harshly criticised even by Burke's own party because it was not general and because no public addresses or remonstrances had been made. Burke however had prepared *An Address to the King* and *An Address to the British Colonists in North America*, which were not published during his life. *Works*, VI. 161-196. The author of one of the replies to the *Letter to the Sheriffs of Bristol* says:

The conduct of Mr. Burke was unworthy an orator, unworthy a patriot, unworthy a man: Not immediately, because he did not oppose the bill; but because, never having resisted the bill with the faintest finger of opposition, he descended so very low as to write against it, after all opposition was vain and frivolous; after it had passed into an established, perfect act of Parliament. What shall we call the behaviour of that man who basely deserts his post in the constitution, who refuses to do his duty in the time of (what he calls) danger, who leaves every thing to the mercy of (those whom he calls) enemies; and, when (what he calls) the tyranny is perhaps irreparably established, sits down to describe to a parcel of Bristol electors (what he calls) their distressful situation."

**13** <sup>26</sup>. **those gentlemen.** Fox, Dunning, and others.

**14** <sup>21</sup>. **Mr. Hume.** David Hume, (1711-1776), a philosopher and historian, was the author of the *Treatise of Human Nature*, the *Enquiry Concerning Principles of Morals*, and the *History of England*. He endeavoured to introduce the experimental method of reasoning into moral subjects.

**15** <sup>30</sup>. **the bond of charity.** "Put on charity, which is the bond of perfectness." *Colossians*, III. 14.

**16** <sup>21</sup>. **the hireling sword of German boors.** "The

conduct of England in hiring German mercenaries to subdue the essentially English population beyond the Atlantic, made reconciliation hopeless and the Declaration of Independence inevitable. It was idle for the Americans to have any further scruples about calling in foreigners to assist them when England had herself set the example. It was necessary that they should do so if they were successfully to resist the powerful reinforcement which was thus brought against them." *Lecky's History of England in 18th Century*, IV. 244. See also note on 29 2. Notice how frequently Burke refers to the Germans in terms of disrespect: 17 27, 20 4, 21 3, 27 29.

**16 29. complimentary addresses.** In the summer of 1775 many loyal addresses from such communities as Manchester and Dublin, were presented, calling upon the Crown to suppress the rebels and reflecting with severity upon their aiders and abettors in the British Parliament. In the *Address to the British Colonists in North America*, Burke said: "We admit, indeed, that violent addresses have been procured with uncommon pains by wicked and designing men, purporting to be the genuine voice of the whole people of England,—that they have been published by authority here, and made known to you by proclamations, in order, by despair and resentment, incurably to poison your minds against the origin of your race, and to render all cordial reconciliation between us utterly impracticable. . . . We are persuaded that even many of those who unadvisedly have put their hands to such intemperate and inflammatory addresses have not at all apprehended to what such proceedings naturally lead, and would sooner die than afford them the least countenance, if they were sensible of their fatal effects on the union and liberty of the empire." *Works*, VI. 184, 185. Burke was especially indignant at the address from the University of Oxford. He declared that "the heads of an University ought by no means to instil political principles into the minds of those [the students] who were not sufficiently matured, who knew too little of the world to be able to judge of their propriety, and to distinguish between sound policy and destructive expedients. Every man must feel the violent error of such conduct; he had himself a son at the University, and he could not approve of that son's being told



by grave men that his father was an abettor of rebels." *Parliamentary Debates*, xviii. 854.

**17 5. the court gazettes.** The official publication of the government, issued twice a week, containing lists of government appointments and promotions, names of bankrupts, and other public notices. See also **24 3**, **25 28**.

**17 12. the White Plains.** Colonel Raille, or Rahl, or Rall, commanded a regiment of Hessians at the Battle of White Plains, 28 Oct. 1776. As a reward for this, he received a brigade with headquarters at Trenton. Owing to his carelessness and conceit, Raille lost his life and his regiment surrendered at the Battle of Trenton, 26 Dec. 1776.

**17 14. Fort Kniphausen.** Baron Wilhelm von Knyphausen was Lieutenant-General and Commander-in-Chief of the Hessians, and on 16 Nov. 1776 he received the surrender of Fort Washington, which was then renamed after him. 2,600 Americans surrendered, and 149 had been killed; the English loss was 500 and the German 350. "This capture of the garrison of Fort Washington was one of the most crushing blows that befell the American arms during the whole course of the war. Washington's campaign seemed now likely to be converted into a mere flight, and a terrible gloom overspread the whole country." *Fiske's American Revolution*, I. 221. It necessitated Washington's retreat through New Jersey to Pennsylvania.

**18 13. with regard to foreign powers.** *The Annual Register*, 1776, p. \* 182, says: "France and Spain have opened their ports, with the greatest apparent friendship to the Americans, and treat them in every respect as an independent people. The remonstrances of the British ministers have availed but little. . . . The American privateers have been openly received, protected, and cherished, and the rich prizes they have taken from the British merchants, rather publicly sold in the French ports, both in Europe and the colonies. Artillery and military stores of all kinds have been likewise sent. . . . In a word, all the nations who possess colonies in America, were eager to partake of the new and unexpected commerce which was now opened; and all, excepting the Portuguese, who, much against their inclination, have been restrained through our influence at that court, still continue most sedulously to profit of the opportunity."

**18 25. their stock.** In *Reflections on the Revolution in France*, Burke says: "We are afraid to put men to live and trade each on his own stock of reason; because we suspect that the stock in each man is small, and that the individuals would do better to avail themselves of the general bank and capital of nations and of ages." *Works*, III. 346.

**19 30. the addressers.** Those who present complimentary addresses to the King in praise and support of his policy. See note on **16 29**.

**20 10. the cowardice of the Americans.** On 16 May, 1775 (one month after the battle of Concord, one month before the battle of Bunker Hill), in a debate in the House of Commons, Lord Sandwich said: "Suppose the colonies do abound in men, what does that signify? they are raw, undisciplined, cowardly men. I wish instead of 40 or 50,000 of these brave fellows, they would produce in the field at least 200,000, the more the better, the easier would be the conquest; if they did not run away, they would starve themselves into compliance with our measures. . . . The very sound of a cannon would carry them off . . . as fast as their feet could carry them." Later he refers to them as "egregious cowards." *Parliamentary Debates*, XVIII. 446.

**21 21. any revenue from America.** The Townshend duties of 1767 yielded a net revenue of £295 for the first year, while the extraordinary military expenses in the colonies for the same period were £170,000. See *Hildreth's History of United States*, II. 553.

**24 3. the court gazette.** The gazette of 23 August 1775 contained a proclamation for suppressing rebellion and sedition:

That, whereas many subjects in divers parts of the American colonies have at length proceeded to open and avowed rebellion; and whereas there is reason to apprehend that such rebellion hath been much promoted by the traitorous correspondence, counsels, and comfort, of divers wicked and desperate persons within this realm; to the end, therefore, that none may through ignorance neglect or violate their duty, it is declared, that not only all officers, civil and military, are obliged to exert their utmost endeavours to suppress such rebellion, and bring the traitors to justice, but that every subject within this realm, and the dominions thereunto belonging, are bound by law to be aiding and assisting in the suppression of the same, and in disclosing all traitorous conspiracies and attempts against the King, his Crown, and dignity. And all such subjects are charged to transmit to one of his Majesty's principal Secretaries

of State, or other proper officer, due and full information of all persons who shall in any manner be found aiding and abetting the persons now in open arms and rebellion against Government, etc. *Gentleman's Magazine*, XLV. 405.

**24 13. the celebrated pamphlet.** "In January, 1776, Thomas Paine published his pamphlet, *Common Sense*, on the suggestion of Benjamin Rush, and with the approval of Franklin and of Samuel Adams." It contained "a sensible and striking statement of the practical state of the case between Great Britain and the colonies. The reasons were shrewdly and vividly set forth for looking upon reconciliation as hopeless, and for seizing the present moment to declare to the world what the logic of events was already fast making an accomplished fact." *Fiske's American Revolution*, I. 174. In one place Paine said: "Neither can ye reconcile Britain and America. The last cord now is broken; the people of England are presenting addresses against us. There are injuries which Nature cannot forgive—she would cease to be Nature if she did." More than 120,000 copies of *Common Sense* were sold in three months. Later, during the war, Paine wrote many pamphlets, called *The Crises*, to keep up the spirits of the colonists. The boast was made that Paine's pen had been as efficient as Washington's sword. Paine, (1737-1809), was an Englishman by birth and had come to America on the advice of Franklin in 1774. After serving in the Continental army and in minor positions in the government, he went to France in 1790, where he took up the cause of the French Revolutionists with as much zeal as he had shown for the American colonists. He wrote the *Rights of Man*, a reply to Burke's *Reflections on the Revolution in France*, and the *Age of Reason*.

**25 24. Lord Howe and General Howe.** Richard Earl Howe, (1726-1799), and his brother, Sir William Howe, (1729-1814), were on 6 May 1776 appointed commissioners of peace to the colonies, according to a clause of the Prohibitory Bill. Lord Howe first attempted to communicate with Washington, but Washington refused to receive the letter because it was addressed to him as a private citizen, without his official titles. "Lord Howe next inclosed his declaration in a circular letter addressed to the royal governors of the middle and southern

provinces; but as most of these dignitaries were either in jail or on board the British fleet, not much was to be expected from such a mode of publication. The precious document was captured and sent to Congress, which derisively published it for the amusement and instruction of the people. It was everywhere greeted with jeers. . . . The only serious effect produced was the weakening of the loyalist party. Many who had thus far been held back by the hope that Lord Howe's intercession might settle all the difficulties now came forward as warm supporters of independence as soon as it became apparent that the king had really nothing to offer." *Fiske's American Revolution*, I. 204. They did not have the power to make any agreement with the colonists upon the subjects in dispute. Practically their only power was to grant pardons to colonists who asked for them, as many did in the disastrous fall and winter of 1776.

**26 5. Mr. Tryon.** William Tryon, (1725-1788), as governor of North Carolina in 1771 defeated the "Regulators," who had rebelled against the excessive taxes. For this he was promoted to be governor of New York. Here he made a great deal of money in buying land for foreign noblemen; in one summer his commissions amounted to £22,000. From October, 1775, to September, 1776, to avoid being captured by the colonists, he lived on board British vessels in New York harbour. In June, 1779, he led a plundering expedition into Connecticut and destroyed the library of Yale College.

**26 13. The trade of America.** "A clause in the late prohibitory act, which enabled the admiralty to grant licences to vessels for conveying stores and provisions to the forces upon the American service, had been made use of to countenance a trade in individuals who were favoured, by which, it was said, that a monopoly was formed, and the American trade was transferred from the ancient merchants, and known traders, to a few obscure persons of no account or condition; and an illicit commerce established under the sanction of that bill, which was utterly subversive of one of its principal apparent objects." *Annual Register*, 1776, p. 142\*, (quoted by Selby).

**27 17. as easy in the control.** "Those who supported the American policy of the government not only supplied them

with large sums of money, but left them free to expend it as they pleased. The House of Commons ought to see that money voted for a certain purpose is properly expended. Frequent complaints were made by the Opposition of the neglect of the government to present proper accounts to the House." (Selby.)

**28 2. the savage Indians.** Both the colonists and the English had employed Indians as allies, but the great majority of the Indians joined the English army because the English government had protected them against the rapacity and violence of the colonists. In May, 1776, the Congress resolved that "it is highly expedient to engage the Indians in the service of the United Colonies;" and in July Washington had written to the General Court of Massachusetts, begging them to enlist 500 or 600 Indians for his own army. One year later General Burgoyne employed a number of Indians, but warned them not to be cruel. On 6 Feb. 1778 Burke spoke in the House of Commons of their cruelty and Burgoyne's ineffectual warning, saying: "Let us state this Christian exhortation and Christian injunction by a more family picture. Suppose there was a riot on Tower Hill, what would the Keeper of his Majesty's Lions do? Would he not fling open the dens of the wild beasts, and then address them thus? 'My gentle lions, my humane bears, my sentimental wolves, my tender-hearted hyenas, go forth; but I exhort you, as ye are Christians and members of a civilised society, to take care not to hurt man, woman, or child.'" Horace Walpole wrote to his friend Mason: "I wish I could give you an idea of that superlative oration. He was pressed to print it, but says he has not time during the session. . . . Governor Johnstone said he rejoiced there were no strangers in the gallery, as Burke's speech would have excited them to tear the ministers to pieces as they went out of the House; the ministers are much more afraid of losing their places." *Letters of Horace Walpole*, VII. 29-30.

**28 8. boasting of unanimity.** At the opening of Parliament, 31 Oct. 1776, the King said, after announcing the open rebellion of the American colonies: "One great advantage, however, will be derived from the object of the rebels being openly avowed, and clearly understood; we shall have unanimity at home, founded on the general conviction of the justice and

necessity of our measures." The English people were far from unanimous in support of the war. "The House of Commons, at the last, with the warm and very general approbation of the country, put a stop to hostilities, and recognised the independence of America. The British nation had been tried in the fire before then, and has been tried since; and it has never been the national custom to back out of a just quarrel for no other reason than because Britain, at a given moment, was getting the worst of it. In 1782 our people solemnly and deliberately abandoned the attempt to reconquer America on the ground that it was both wrong and foolish; and that fact, to the mind of everyone who holds the British character in esteem, affords an irresistible proof that a very large section of the people must all along have been fully persuaded that the coercion of our colonists by arms was neither wise nor righteous." *Trevelyan's American Revolution*, Part II. Vol. II. 164-179. See also 31 26.

**28 21. a formed American party.** In the *Address to the British Colonists*, Burke said: "Do not think that the whole, or even the uninfluenced majority, of Englishmen in this island are enemies to their own blood on the American continent. Much delusion has been practised, much corrupt influence treacherously employed. But still a large, and we trust the largest and soundest, part of this kingdom perseveres in the most perfect unity of sentiments, principles, and affections with you." *Works*, VI. 184.

**29 2. in the arms of France.** When the English called in the aid of German mercenaries, the colonies determined to seek foreign aid also. This was found in France, England's old enemy, who desired to avenge herself for the loss of Canada. In the fall of 1776, Congress sent Benjamin Franklin and two other commissioners to France, who induced her to contribute about \$500,000 and many military supplies to the colonies. Later many Frenchmen, such as the young Marquis of Lafayette, came to America as volunteers. In the spring of 1778, the French made a treaty with Congress, "to acknowledge and support her independence, and to seek no advantage for themselves except a participation in American commerce and "a great political end of severing the colonies from the British empire."

The sole condition exacted was that the Americans should make no peace with England which did not involve a recognition of their independence." *Lecky*, IV. 434.

**30 12. General rebellions.** In *Thoughts on the Cause of the Present Discontents*, Burke says: "I am not one of those who think that the people are never in the wrong. They have been so, frequently and outrageously, both in other countries and in this. But I do say, that in all disputes between them and their rulers, the presumption is at least upon a par in favour of the people. . . . When popular discontents have been very prevalent, it may well be affirmed and supported, that there has been generally something found amiss in the constitution, or in the conduct of government. The people have no interest in disorder. When they do wrong, it is their error, and not their crime. But with the governing part of the state, it is far otherwise. They certainly may act ill by design, as well as by mistake." *Burke's Works*, I. 440. Burke seemed to forget this truth a few years later, when he came to deal with the French Revolution. (Perry.)

**30 15. the encouragement of rebellion.** See note on 24 3 and 16 29.

**31 14. earnest supplications, etc.** In 1765 the Stamp Act Congress presented a petition to Parliament. In October, 1774, the Continental Congress presented a petition to the King, and one year later a second petition, full of *earnest supplications*:

We beseech your Majesty to direct some mode by which the united applications of your faithful colonists to the throne, in pursuance of their common councils, may be improved into a happy and permanent reconciliation; and that, in the meantime, measures may be taken for preventing the further destruction of the lives of your Majesty's subjects, and that such statutes as more immediately distress any of your Majesty's colonies may be repealed.

*Commerce was suspended* by the non-importation agreements of 1768, which in one year reduced the imports from £2,378,000 to £1,634,000, and by the resolution of Congress not to import anything from Great Britain after 1. Dec. 1774.

**32 12. driven by the popular voice.** In 1739 Walpole was forced to yield to the popular demand for war with Spain.

**32 22. the Dutch war.** In 1664 England had gone to

war with Holland for violation of commercial agreements. At first the Dutch were successful, aided by the Plague of 1665 and the Great Fire of 1666. The growing power of France led to the ending of the war, and the formation of the Triple Alliance of England, Holland, and Sweden. But in 1672 England and France both attacked Holland, which was saved only by the leadership of William, Prince of Orange, afterwards William III. of England. Charles II. made peace in 1674, chiefly because the people had begun to suspect that he was a Roman Catholic, and because Holland was looked upon as the stronghold of Protestantism. See *J. R. Green's Short History of England*, chap. ix.

**32 26. massacre at Amboyna.** In 1673, with the avowed intention of exasperating the nation against the Dutch, Dryden wrote a play on the massacre at Amboyna, a small island of the East Indies, where in 1622 ten English traders had been tortured to death by the Dutch garrison.

**33 6. the last summer assizes.** Assizes are the sessions of court held in each county of England, twice a year for the trial of civil cases and four times for criminal cases. Burke visited his friend Richard Champion in Bristol on August 22 and 23, 1776.

**33 21. to evacuate Boston.** On the night of 4 March 1776, under cover of cannonading, Washington captured Dorchester Heights, overlooking Boston. This forced General Howe to remove his 8,000 troops from Boston on 17 March and to sail for Halifax. "In taking possession of the town, Washington captured more than two hundred serviceable cannon, ten times more powder and ball than his army had ever seen before, and an immense quantity of muskets, gun-carriages, and military stores of every sort. Thus was New England set free by a single brilliant stroke, with very slight injury to private property, and with a total loss of not more than twenty lives." *Fiske's American Revolution*, I. 172.

**34 4. in the same gazette.** In the fall of 1776, Burke prepared an amendment to the address of the House of Commons to the King, but it was never presented. In it he said:

The commissioners sent into America for the pretended purpose of making peace, were furnished with no other legal powers but



that of giving or withholding pardons at their pleasure, and for relaxing the severities of a single penal act of Parliament, leaving the whole foundation of this unhappy controversy as it stood in the beginning. . . . In addition to this neglect, solely owing to the representation of his ministers, in direct violation of public faith held out from the throne itself, when, in the beginning of last session, his Majesty in his gracious speech to both Houses of Parliament, declared his resolution of sending out commissioners for the purpose therein expressed, *as speedily as possible*, no such commissioners were sent until near seven months afterwards, and until the nation was alarmed by the evacuation of the only town (Boston) then held for his Majesty in the thirteen united colonies. By this intentional delay, acts of the most critical nature, the effect of which must as much depend on the power of immediately relaxing them on submission, as in enforcing them in obedience, had only an operation to inflame and exasperate. But if any colony, town, or place, had been induced to submit, by the operation of the terrors of these acts, there were none on the place of power to restore the people so submitting to the common rights of subjection. The inhabitants of the colonies, therefore, apprised that they were put out of the protection of government, and seeing no means provided for their entering into it, were furnished with reasons but too colourable, for breaking off their dependency on the crown of this Kingdom. *Burke's Correspondence*, II. 123.

**34 7. several months after an act.** The Prohibitory Bill was approved by the King on 22 Dec. 1775, but Lord Howe and General Howe were not appointed commissioners until 6 May, 1776.

**34 24. There was a moment.** After the capture of New York by General Howe on 15 Sept. 1776. Little was done for two months until Fort Washington was taken on 16 November.

**35 24. upon speculative grounds.** In his speech on *American Taxation*, Burke said: "I am not here going into the distinctions of rights, not attempting to mark their boundaries. I do not enter into these metaphysical distinctions; I hate the very sound of them. Leave the Americans as they anciently stood, and these distinctions, born of our unhappy contest, will die along with it." *Works*, II. 73.

**36 29. this authority perfect.** Although Burke had voted to repeal the Stamp Act, he had voted in favour of the Declaratory Act (6 Geo. III. 12) which declared:

The colonies and plantations in America have been, are, and of right ought to be, subordinate unto, and dependent upon, the imperial Crown and Parliament of Great Britain; and the King's Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons of Great Britain, in Parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and

validity to bind the colonies and people of America, subjects of the Crown of Great Britain, in all cases whatsoever.

**38 2. the High Commission Court, and the Star Chamber.** In 1583, Queen Elizabeth, by the authority of the Act of Supremacy, appointed the High Commission Court to punish all violations of laws concerning religion, especially among the Puritans. It gradually usurped almost despotic powers of imposing fines and imprisonments. The Court of Star Chamber (so-called because it met in the Star Chamber of Westminster) was formally constituted by Henry VII. in 1487. Its jurisdiction extended legally over riots, perjury, misbehaviour of sheriffs, and other notorious misdemeanours, contrary to the law of the land. This was afterwards stretched "to the asserting of all proclamations, and orders of state; to the vindicating of illegal commissions, and grants of monopolies; holding for honourable that which pleased, and for just that which profited, and becoming both a court of law to determine civil rights, and a court of revenue to enrich the treasury; the council table by proclamations enjoining to the people that which was not enjoined by the laws, and prohibiting that which was not prohibited; and the Star-Chamber, which consisted of the same persons in different rooms, censuring the breach and disobedience to those proclamations by very great fines, imprisonments, and corporal severities; so that any disrespect to any acts of state, or to the persons of statesmen, was in no time more penal, and the foundations of right never more in danger to be destroyed." See *Blackstone's Commentaries*, IV. 266. Both courts were abolished by the Long Parliament in 1641 (16 Car. I. 10) "to the general joy of the whole nation."

**38 10. the established religion.** In 1535, the Act of Supremacy declared the King, and not the Pope, the supreme head of the Church of England. The mode of worship was altered by the Six Articles in 1539 and by the Act of Uniformity in 1549. Roman Catholicism was restored by Mary in 1553. But in 1559 Elizabeth declared the Church of England independent, and four years later the Thirty-Nine Articles were adopted as the fundamental doctrines of the English Church. In 1687, James II. made an unsuccessful attempt to restore Roman Catholicism by a Declaration of Indulgence, which sus-

pended all laws against Roman Catholics and Dissenters alike and gave permission to both to worship publicly.

**38 18. to follow, not to force.** "In all bodies, those who will lead must also, in a considerable degree, follow. They must conform their propositions to the taste, talent, and disposition of those whom they wish to conduct." *Reflections on the Revolution in France*, *Burke's Works*, III. 284.

**38 25. the king's negative to bills.** Three centuries ago English sovereigns frequently exercised their right of vetoing acts which both Houses of Parliament had passed; Queen Elizabeth vetoed 48 of the 91 acts presented to her during one session. But the right has not been exercised since 1708 when Queen Anne vetoed the act for settling the militia of Scotland. See *Atlantic Monthly*, Dec. 1903. In fact, Walter Bagehot, in his essay on the *English Constitution*, says: "Queen Victoria must sign her own death-warrant, if both Houses present it for her signature." In England the sovereign's veto abolishes the act, but in the United States, an act may be made a law, despite the President's veto, by a two-thirds vote of Congress.

**39 9. the Convocation of the Clergy.** Formerly the affairs of the Church were controlled by the Convocations of Canterbury and of York. The more important, that of Canterbury, was modelled on the Houses of Parliament, with an upper house of 22 bishops, and a lower house of 143 clergymen. In 1531 it granted £100,000 to Henry VIII., who, in turn, gave free pardon to all clergymen for spiritual offences. It approved the Act of Supremacy and confirmed the Articles of Faith. Until 1665, clergymen were exempt from all taxation, except that imposed by the Convocation. From 1717 to 1852 the Convocations were not permitted to meet even for discussion; but since then they have met in annual sessions, which however are of purely domestic interest, for their conclusions have no authority save *in foro conscientie*.

**39 20. prudence.** In *An Appeal from the New to the Old Whigs*, Burke said: "Nothing universally can be rationally affirmed on any moral or any political subject. Pure metaphysical abstraction does not belong to these matters. The lines of morality are not like the ideal lines of mathematics. They are broad and deep as well as long. They admit of ex-

ceptions; they demand modifications. These exceptions and modifications are not made by the process of logic, but by the rules of prudence. Prudence is not only the first in rank of the virtues political and moral, but she is the director, the regulator, the standard of them all. Metaphysics cannot live without definition; but Prudence is cautious how she defines." *Works*, IV. 81.

**40 2. the divine Providence.** In his speech on Mr. Fox's East India Bill (1783), Burke says: "All these circumstances (ignorance of the language, customs, etc.) are not, I confess, very favourable to the idea of our attempting to govern India at all. But there we are; there we are placed by the Sovereign Disposer; and we must do the best we can in our situation. The situation of man is the preceptor of his duty." *Works*, II. 465.

**40 4. concerning the unity of empire, etc.** In his speech on *Conciliation with the Colonies* (1775), Burke said: "It is said, indeed, that this power of granting (taxes), vested in American assemblies, would dissolve the unity of the empire, — which was preserved entire, although Wales, and Chester, and Durham were added to it . . . The very idea of subordination of parts excludes this notion of simple and undivided unity. England is the head; but she is not the head and the members too." *Works*, II. 170. Lord Chatham argued that the right to legislate does not include the right to tax.

**40 12. the Cutchery court.** In British India, a court of justice or a collector's or any public office.

**40 15. government was a practical thing.** In *Reflections on the Revolution in France*, Burke said: "Government is a contrivance of human wisdom to provide for human wants." *Works*, III. 310.

**40 26. a free government is . . . what the people think so.** Dr. Johnson said: "I will let the King of France govern me on those conditions, for it is to be governed just as I please." When a friend talked of a girl being sent to a parish workhouse, and asked how much she could be obliged to work, Dr. Johnson replied: "Why, as much as is reasonable. And what is that? as much as *she thinks* is

reasonable." *Boswell's Johnson*, edited by Birkbeck Hill, III. 187.

**41** <sup>12.</sup> **as if it were an abstract question.** "Politics ought to be adjusted, not to human reasonings, but to human nature; of which reason is but a part, and by no means the greatest part." *Observations on the Present State of the Nation*, *Burke's Works*, I. 398.

**42** <sup>23.</sup> **Liberty too must be limited.** In *Reflections on the Revolution in France*, Burke mentions the following limitation: "Society requires not only that the passions of individuals should be subjected, but that even in the mass and body, as well as in the individuals, the inclinations of men should frequently be thwarted, their will controlled, and their passions brought into subjection. This can only be done *by a power out of themselves*, and not, in the exercise of its function, subject to that will and to those passions which it is its office to bridle and subdue. In this sense the restraints on men, as well as their liberties, are to be reckoned among their rights." *Works*, III. 310.

**43** <sup>7.</sup> **the Sabbath . . . was made for man.** "And he (Jesus) said unto them, the Sabbath was made for man, and not man for the Sabbath." *Mark*, II. 27 and *Genesis*, II. 2-3.

**44** <sup>22.</sup> **of full two years' standing.** The Battle of Lexington and Concord, 19 April, 1775, is considered the outbreak of the war.

**45** <sup>16.</sup> **by royal instruction or royal charter.** The governments of Massachusetts, Connecticut and Rhode Island were instituted by royal charter; the other colonies were governed first by their proprietors and later by the King.

**46** <sup>17.</sup> **these two legislatures.** The English Parliament and the Colonial Assemblies.

**47** <sup>21.</sup> **the colonies fell, etc.** In *A Memorial to the Inhabitants of the Colonies*, 21 Oct. 1774, the Continental Congress said: "After the repeal of the Stamp Act, having again resigned ourselves to our ancient *unsuspicious* affections for the parent state, and anxious to avoid any controversy with her, in hopes of a favourable alteration in sentiments and measures towards us, we did not press our objections against the above mentioned statutes made subsequent to that repeal."

**48 2. a plan of pacification.** The repeal of the Stamp Act, and the Declaratory Act, passed while Rockingham was Prime Minister.

**48 20. those almost unanimous members.** A rather extravagant expression, for the *Journal of the House of Commons* says that on 4 March 1766 the Stamp Act was repealed by a vote of 250 to 122. Burke described it as "an event that caused more universal joy throughout the British dominions than perhaps any other that can be remembered." *Lecky's History of England*, IV. 94.

**49 1. not a single murmur.** "In America the effect of the news [of the repeal of the Stamp Act] was electric. There were bonfires in every town, while addresses of thanks to the king were voted in all the legislatures. Little heed was paid to the Declaratory Act, which was regarded merely as an artifice for saving the pride of the British government. There was a unanimous outburst of loyalty all over the country, and never did the people seem less in a mood for rebellion than now." *Fiske's American Revolution*, I. 27.

**49 9. a repeal of all the late coercive statutes.** By his resolutions of 16 Nov. 1766, to give up the right of taxation, which were defeated by a vote of 210 to 105, according to the *Journal of the House of Commons*, or 210 to 110 as Burke says, **50 8.** See *Annual Register*, 1776, pp. 104-109.

**50 27. a formal obligation.** See INTRODUCTION, p. xxviii.

**51 4. that ancient and powerful party.** The Tories.

**51 16. virtuous city.** "The place that Bristol holds in our national history is one of peculiar importance, for it was for centuries the greatest purely trading town in a century that owes its greatness to its trade. For centuries it was second only to London." *Hunt's Bristol*, p. 1.

**52 13. a party man.** See INTRODUCTION, p. xi.

**52 23. the Saviles, etc.** Sir George Savile, (1726-1784), was member of the House of Commons for Yorkshire from 1759-1783. He worked with Burke for the American colonies, for religious toleration, and for economical reform. He was "a staunch Whig of unimpeachable character and large for-

tune. He devoted the whole of his time to public affairs, and was greatly respected by his contemporaries for his unbending integrity, and his unostentatious benevolence."

William *Dowdeswell*, (1721-1775), was Chancellor of Exchequer under Rockingham. In the epitaph which Burke wrote for Dowdeswell's tomb, he spoke of him as "a senator for twenty years, a minister for one, a virtuous citizen for his whole life. . . . He understood beyond any man of his time the revenues of his country, which he preferred to everything except its liberties. He was a perfect master of the law of Parliament, and attached to its privileges until they were set up against the rights of the people. All the proceedings which have weakened Government, endangered freedom, and distracted the British empire, were by him strenuously opposed. And his last efforts under which his health sunk were to preserve his country from a civil war; which being unable to prevent, he had not the misfortune to see."

Charles Watson-Wentworth, second Marquis of Rockingham, (1730-1782), was Prime Minister in 1765-1766 and secured the repeal of the Stamp Act and the passing of the Declaratory Bill. He became Prime Minister again in 1782, after the fall of Lord North. Rockingham "carried out a steadily liberal policy with great good sense, a perfectly single mind, and uniform courtesy to opponents. He had the advantage of following one of the most unpopular ministries, and the genius of Burke, who was his private secretary, and who was brought into Parliament by his influence, has cast a flood of light upon his administration and imparted a somewhat deceptive splendour to his memory. Few English statesmen of the highest rank have been more destitute of all superiority of intellect or knowledge. Few English ministries have been more feeble than that which he directed, yet it carried several measures of capital importance." *Lecky's England in the 18th Century*, III. 271. See also 47 31.

William Henry Cavendish *Bentinck*, third Duke of Portland, (1738-1809), became Lord Chamberlain of the Household and member of the Privy Council under Rockingham's first ministry in 1765. In 1782 he was sent to Ireland as Lord Lieutenant. After Rockingham's death, Portland became the leader of the

Rockingham Whigs, and Prime Minister in the famous Coalition Ministry of 1783, in which Fox and Burke united with their old enemy, Lord North. Portland "was not a great speaker, but he had exactly the character which had enabled Rockingham to hold his party together; he could always be trusted and his rank and wealth were sufficiently preëminent to prevent others from being jealous of his position. He did not make a good leader of an opposition; he left all party tactics to Fox and Burke, and devoted himself more and more to his country life at his favourite seat, Bulstrode, and to the study of music, of which he was passionately fond." In 1792 he became allied with Pitt, acting as Secretary of State from 1794-1801. He acted as Lord President of the Council until 1806, and was Prime Minister from 1807-1809.

Charles *Lenox*, third Duke of Richmond, (1735-1806), was appointed ambassador at Paris by Rockingham in 1765, and became Secretary of State the next year. He was Master General of Ordnance in 1782 under Rockingham's second ministry. He was the great grandson of Charles II., and the uncle of Charles James Fox.

George Montagu, fourth Duke of *Manchester*, (1737-1788), was appointed Lord Chamberlain by Rockingham in 1782, and later became ambassador to France.

Augustus *Keppel*, Viscount Keppel, (1725-1786), was sent out as commodore to the Mediterranean to form a treaty with the Dey of Algiers, who angrily expressed surprise that "the King of Great Britain should have sent a beardless boy to treat with him"; Keppel replied: "Had my master supposed that wisdom was measured by the length of the beard, he would have sent your deyship a he-goat." In 1779, after an action against the French off Brest, Keppel was court-martialled on the charges of not marshalling his fleet, going into the fight in unofficerlike manner, scandalous haste in quitting it, running away, and not pursuing the flying enemy—each charge a capital offence. The charges which had been presented by an inferior officer, were proved "malicious and ill-founded." In 1782 he became First Lord of the Admiralty under Rockingham's ministry. For Burke's opinion of Keppel, see the closing paragraphs of his *Letter to a Noble Lord*.



Sir Charles *Saunders*, (1713-1775), was the commander-in-chief of the English fleet which co-operated with General Wolfe to capture Quebec.

Lord John *Cavendish*, (1732-1796), was Lord of the Treasury under Rockingham in 1765, and Chancellor of the Exchequer in 1782 and again under the Coalition Ministry of 1783. Burke described him as "an accomplished scholar, and an excellent critic, in every part of polite literature, thoroughly acquainted with history, ancient and modern; with a sound judgment; a memory singularly retentive and exact, perfectly conversant in business, and particularly in that of finance; of great integrity, great tenderness and sensibility of heart, with friendships few, but unalterable; of perfect disinterestedness; the ancient English reserve and simplicity of manner." *Burke's Correspondence*, IV. 526.

**53** <sup>21</sup>. **all equally corrupt.** Many believed in the remark, which Sir Robert Walpole was supposed to have uttered: "Every man has his price."

**54** <sup>10</sup>. **Titius and Maevius**, "this man and that." These names are used in Roman law for the hypothetical persons of imaginary law-suits, like John Doe and Richard Roe in English law. See the *Institutes of Gaius*.

**56** <sup>25</sup>. **conservatory.** "A place where any thing is kept in a manner proper to its peculiar nature; as, fish in a pond, corn in a granary." *Johnson's Dictionary*.

**57** <sup>12</sup>. **so sore a trial.** Cf. "these are the times that try men's souls." *Paine's Common Sense*.

**57** <sup>18</sup>. **the principles of our forefathers.** "The feelings of the colonies were formerly the feelings of Great Britain." *Burke's American Taxation*, Works, II. 17.

**58** <sup>22</sup>. **Many things**, etc. "What these things were Burke states at length in his pamphlet on *The Present Discontents*, published in 1770. In his opinion the chief circumstances were, the immense and growing influence of the Court, the servility of Parliament, and, in particular, the abdication by the House of Commons of its proper function of a control on the executive government, and the supineness of the people." (Selby.)

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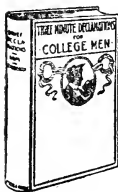
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